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VINDICATION

OF

MR. FOX'S HISTORY

OF

THE PART OF THE REIGN

OF

JAMES THE SECOND.



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INDICATION

IN A BOX OF HISTORY

EARLY PART OF THE HISTORY

THE SECOND



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OF

JAMES THE SECOND

BY SAMUEL JOHNSON

LONDON

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1831



A  
VINDICATION  
OF  
*MR. FOX'S HISTORY*  
OF THE  
EARLY PART OF THE REIGN  
OF  
*JAMES THE SECOND.*

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BY SAMUEL HEYWOOD,  
SERJEANT AT LAW.

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LONDON:  
PRINTED FOR J. JOHNSON AND CO.  
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1811.



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ESQUIRE AT LAW  
LONDON:  
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1729.



## PREFACE.

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THE publication of Mr. Fox's Historical Work, though only an *unfinished fragment*, naturally excited a considerable degree of interest in the public mind; however imperfect it might be, it was the production of a man, universally acknowledged to have been blessed with talents of the highest class, whose long political life had rendered him peculiarly conversant with the subjects upon which he professed to write. To discover legitimate objects for criticism in almost any posthumous publication cannot be very difficult, but such works have usually been treated with much indulgence, and Mr. Fox's book has more than common claims upon the candour of the public. It is only a small portion of his intended work: we are not assured that, if he had lived, he would have allowed any part of it to have been laid before the public in its present state. On the contrary, it may be proved from the work itself,



that in the author's consideration it was not so far advanced as to be in a state fit for the press; for one passage, which was meant to be substituted for another, is inserted in the manuscript, and yet the original one continues unobliterated, and both now make part of the printed text\* from a praise-worthy delicacy of the noble editor, that there may not be a possibility of doubt, as to the authenticity of the publication.

When Mr. Rose announced his intention to make some observations on this publication, his situation in life was a pledge to the public, that they would be written in the spirit of liberality, and his former publications concerning finance and records, of which the value must depend almost entirely upon their accuracy, induced a hope that errors might be rectified, and obscurities cleared up, if any there were, by his assistance: Mr. Rose himself seems to have been aware of the expectations of the public, and in his Introduction, as well as in different parts of the body of his work, makes the strongest professions of candour and impartiality, and censures the want of that accuracy, in which from the offices he has filled, he supposes himself particularly to excel. He was aware of the delicacy

\* Mr. Fox's Historical Work, p. 181.



of the situation in which he placed himself, when he undertook to comment on Mr. Fox's Work, from his having been "very long honoured with the confidence, and enjoyed the affectionate friendship of "his principal political opposer\*." But to obviate this objection, he assures us, "that the opposition of every "liberal man has died with its object;" which is a pretty strong admission that his opposition was not to the principles, but to the person of Mr. Fox, for the principles remain though the person is gone; and yet he adds, that "his opposition was altogether on public "grounds." He says, there was a time when he hoped to have seen a junction of Mr. Fox and Mr. Pitt, but in reading Mr. Fox's History he had conceived a doubt, how far their co-operation could have been permanent, because "the political principles of Mr. Pitt certainly "would not have accorded with those of Mr. Fox, in the "manner in which he has developed them." He however intimates that in power, he might not have acted according to the demonstration of his principles in his book. Mr. Rose, then, by his own acknowledgment, had been very long in the habit of opposing the political measures of Mr. Fox, and had been honoured with the confidence and affectionate friendship of his principal political opponent.

\* Mr. Rose's Introduction, p. xxxiv.



He might have added, that Mr. Pitt to him had been a patron, as well as a friend, and that under his auspices, he had acquired nearly the summit of wealth and honour. Mr. Pitt was not so implacable in his enmity as Mr. Rose, and at the close of his life was become sincerely desirous that Mr. Fox should assist in the government of the country, and even Mr. Rose had hoped for it. But from some dreadful principles disclosed in Mr. Fox's book, which during the greater part of a life spent in political contest, he had carefully concealed, or Mr. Rose had not had the sagacity to discover, he now doubts whether the co-operation of these celebrated rivals could have lasted, because the political principles of Mr. Pitt could not have accorded with those which the tardy penetration of Mr. Rose has discovered in the posthumous work of Mr. Fox!

An appeal may safely be made to the opponents as well as the supporters of the latter, whether he was ever in the habit of concealing his principles, and to any person, except Mr. Rose, who has read his work, whether there are any principles developed in it inconsistent with those, which he had uniformly avowed and acted upon. We shall examine hereafter whether Mr. Rose has fairly represented the passages, from which he has drawn his conclusion, and whether, if fairly represented they would justify it. But we are inclined to think more highly of Mr. Pitt; he, (whatever



Mr. Rose might be) could not but be perfectly well acquainted with the principles of Mr. Fox when he made overtures to introduce him into power; and we may safely conclude that he felt none of those apprehensions, which have so recently found their way to the bosom of Mr. Rose. It will be found in the progress of this work that no opinion, supported by Mr. Fox, is calculated to alarm the most zealous friends of the monarchical part of our constitution. But that his principles are such, as Mr. Pitt or any Minister of the Crown might have avowed in the presence of his Sovereign without a blush, and, what is not unworthy of notice, are conveyed in expressions less offensive to monarchy than some of those, in which Mr. Rose has unnecessarily indulged himself.

Mr. Rose certainly must have been unacquainted with the honorable mind, and manly feelings of Mr. Fox, when he insinuates, that if he had come into power he might not have acted "according to the demonstration of the principles in his book," and must have forgotten that the experiment had been tried before the Observations were written. Mr. Fox had been in power for a few months, and during that short period had proved that in him, change of situation induced no alteration of sentiment. For through the exertions of that administration of which he was a distin-



guished member, the friends of humanity may now exult in the abolition of the slave trade, and his ardent wishes for the success of the catholic claims remained unchanged to his last moments. The hostile bias of Mr. Rose towards Mr. Fox's politics is not only visible in the passages just commented upon, but will be apparent in many others noticed hereafter. But after Mr. Rose's excuses "for suspecting" "the accuracy of Mr. Fox's statement, and the justness of" "his reflections," and the observation that "with perfect" "rectitude and impartiality of intention a man in a particular political situation, can hardly form impartial opinions," because "he breathes an atmosphere of party, with which" "the constitution and temperament of his own mind can" "hardly fail to be affected ;"\* we may justly doubt, whether Mr. Rose himself, having long breathed this atmosphere, is entitled to be ranked among the fortunate few, who have escaped the contagion. If the political influence, he alludes to, were confined merely to the leaders of parties, he might perhaps have been free from it. But he does not confine it to them, and there is no good reason why it should not extend to those who have filled inferior situations ; on the contrary, they, surely must be in greater danger, who are attached not only to the party by common principle but

\* Mr. Rose's Introduction, p. ix.



o its leader by the still stronger ties of personal interest, gratitude, and affection. We, therefore, should be justified upon his own principle, in suspecting the accuracy of Mr. Rose's statements and the justness of his reflections, and in questioning his capacity, though not his intentions of forming impartial opinions. Mr. Rose is perfectly sensible of the justness of this remark, and therefore obviates it by assuring us, that, on this account, he is particularly jéalous "of his own judgment" and had been more scrupulous of his authorities and his own opinions than he might have been in commenting upon the work of any other author\*." He therefore cannot be displeased at his readers being doubtful of his judgment, and investigating with some degree of minuteness; the weight of his authorities, and the propriety of his opinions. If professions of impartiality and candour, would make a man candid and impartial, Mr. Rose would certainly be entitled to that character. And we will not deprive him of the credit of intending to fulfil, and even thinking he has fulfilled those professions; but we lament that his good intentions have not been proof against the contagious atmosphere of politics, in which he has so long breathed. He cannot be impartial, the spirit of opposition to Mr. Fox, which actuated the Secretary to the Treasury under his political opponent, still reigns in the

\* Mr. Rose's Introduction, p. xxxiii.



bosom of the Treasurer of the Navy, and is every where visible, notwithstanding his good resolutions. It may be traced in the numerous incorrect quotations, and groundless objections found in every part of Mr. Rose's publication, in his attacking without cause Mr. Fox's arguments and conduct, and charging him with dangerous political principles, neither advanced in his work, nor to be deduced from it. Mr. Rose observes that particular circumstances in the private situation of an author rarely afford a satisfactory apology for a failure in argument\*, and yet alledges with some confidence, as an excuse for his own deficiencies, that he had not been many more weeks in composing his Observations, than Mr. Fox had been years in writing his Historical Work. That work was the produce of his occasional labours for about four years, and Mr. Rose therefore must have completed his Observations in the short period of not many more than four weeks, in the midst too, of almost unremitting attention to official duties. But the truth of the assertion is not meant to be disputed here; almost every page of the Observations corroborates the statement.

To the baneful effects of the political atmosphere before alluded to, and the hurry in which Mr. Rose has written the

\* Mr. Rose's Introduction, p. xxxv.



Observations may be owing his unfortunate failure in accuracy. For allowing, most willingly, that he felt an honest anxiety upon the subject, his authorities are very frequently not correctly quoted, and generally either fail to prove, or directly contradict the propositions they are intended to support. These charges are not light ones, but the ensuing pages will exhibit abundant proofs of their being well founded. In the mean time it may be proper, in illustration of these remarks, to call the attention of the reader to some particular passages in Mr. Rose's Introduction.

To prove that Mr. Fox was misled by a propensity to apply every historical incident to the defence of those political principles, on which he had himself acted, Mr. Rose charges him with having translated incorrectly a passage in a letter of Mr. Barillon. The alledged mistranslation is admitted to have been made without intention, and therefore the propensity is to be inferred merely from the mistake itself. This would be a rather harsh rule to lay down for Authors, and Mr. Rose might find some difficulty to vindicate either himself, or Sir John Dalrymple from the charge of an improper bias having operated upon their minds, inferred from the numerous errors of this description, into



which they have both fallen, and some of which will be noticed hereafter.

Upon the disputed meaning of the original it might be dangerous for an Englishman, and one not confident in his critical knowledge of the French language to offer an opinion. And such is the complicated construction of the passage that its satisfactory discussion must necessarily run into considerable length. I shall therefore leave the grammatical merits, and the real meaning of it, due regard being had to the general style of epistolary correspondence, and of Barillon's letters in particular, to Mr. Rose and the Critics. In which ever way they may decide, the fact related is equally favourable to the political principles of Mr. Fox, and consequently the construction, which he put upon the words, could not have arisen from any propensity influencing him to distort historical incident to the purpose of defending his political principles and conduct. To make out the charge alledged by Mr. Rose it would not be sufficient to prove that Mr. Fox had mistaken the meaning of the words, it must be shewn either that he had given them a meaning more favourable to his general view of politics, or was so deficient in mental powers as not to perceive that their real meaning was as well, or better, suited to his



purpose and would equally serve to introduce the observations he makes upon them.

The quotation in question is from Barillon's letter of the 7th of December 1684\*, and Mr. Fox says, all the other Ministers "maintained, that his Majesty could, and "ought to govern countries so distant, in the manner that "should appear to him most suitable for preserving or "augmenting the strength and riches of the mother country†." Mr. Rose would strike out the words "mother country," and substitute the word "colony," we will therefore suppose the correction to be made, and consider the effect of it. The proceeding, of which Barillon is giving an account to his master, took place in Council, where the Marquis of Halifax argued strongly for modeling the Charters of the British Colonies of America upon principles analogous to those of the British Constitution, and the passage in dispute contains the substance of the answers made to his arguments by the other Ministers. This opinion of Halifax was made use of to the King, as a proof of his dangerous principles, by the Duke of York and the French interest, in order to accomplish his removal

\* Fox, App. p. viii.

† Fox, p. 59.



from power. And Mr. Fox remarks "there is something  
" curious in discovering that, even at this early period, a  
" question relative to North American liberty, and even to  
" North American taxation, was considered as the test of  
" principles friendly, or adverse to arbitrary power at  
" home\*." Now, whether Mr. Rose's correction is made  
or not, this observation of Mr. Fox's and the one which  
follows, founded upon it, are not in the smallest degree  
affected. Both these observations are equally well applied,  
whether we read "mother country," or "colony;" and  
Mr. Fox, if we stopped here, must, according to this system  
of reasoning, have acted under an improper influence when  
he fell into the mistake, because it makes no difference what-  
ever in his argument. But if Mr. Fox can be supposed  
to have had a further view, which he did not choose to avow,  
in presenting this page to the notice of his reader, it must  
be an extraordinary sort of propensity, which blinded him  
so far as to induce him unintentionally to translate incor-  
rectly that, which truly translated, would have been more  
to his purpose. For by adopting Mr. Rose's correction,  
this passage becomes to a certain extent a direct and strong  
authority for those principles, which Mr. Fox so strenuously,  
and at last successfully maintained in the House of Commons.

\* Fox, p. 60.



We learn, adopting the amendment of Mr. Rose, that Halifax argued that the colonies ought not to be taxed at the pleasure of the government at home, even for their own benefit, and that the Ministers of Charles the Second did not venture to urge a right in the mother country to derive a revenue to itself from its colonies, but contented themselves with asserting its right to tax them only for the promotion of their own internal prosperity. The claims of the mother country were not in Lord Halifax's time so extravagant as those Mr. Fox had to contend with, for the folly of attempting to impose taxes upon colonies for the benefit of the mother country was reserved for later times. And, if the principles of the tory advisers of Charles the Second had not been departed from, we might not have had to lament in our own days the horrors of a civil war, or seen a large portion of British subjects forcibly separated from the parent state. The Earl of Halifax and Mr. Fox not only professed principles nearly similar upon the subject of American taxation, but they were both unjustly calumniated for it by their opponents, as entertaining sentiments hostile to the monarchical form of government under which they lived.

Mr. Rose apologizes for entering into a free examina-



tion of the Historical Work, because the object of that work, " is to examine severely and minutely the authorities, " on which former historians have asserted facts, or from " which they have deduced opinions, and he must be," says he, " a very partial reader, who can complain of a free " examination of a work, in which such a man as Hume, " is characterised in the following words. ' He was an " excellent man, and of great power of mind, but his parti- " ality to Kings and Princes is intolerable; nay, it is in my " opinion quite ridiculous, and is more like the foolish " admiration, which women and children sometimes have " for Kings, than the opinion, right or wrong, of a philoso- " pher\*."

Mr. Rose is somewhat unfortunate in this apology, for this character of Mr. Hume is found, not in Mr. Fox's Historical Work, but a private letter cited by his nephew in the Introduction: where then was the boasted official accuracy of Mr. Rose? twice at least by his own statement, has he perused Mr. Fox's work, and once attentively; is it then uncharitable to suppose that he must have known that this passage was not where he states it to be, or been blinded by some

\* Rose's Introduction, p. xi.

sort of propensity which deluded his imagination into a belief that it was there? The object of Mr. Fox's book, it may be admitted, was to give an accurate history of the principal facts, which led to the revolution, and of the revolution itself. To do this, it was necessary for him to examine the authorities of former writers, and the turn of his mind led him to be very minute in his enquiries, but the word "severely," if meant to convey the idea of those enquiries having been conducted with a view to find fault with others, is certainly misapplied. No friend of Mr. Fox would complain of, and no friend to literature or political liberty but must wish for a full and free examination of it. But such examination should be conducted with candour, and not taken advantage of to depreciate the political tenets of the author, under the mask of examining his errors in history.

The defence, which Mr. Rose goes out of his way to set up for Mr. Hume, against the charge of partiality to Kings and Princes is curious. He admits the existence of this partiality, but excuses it by saying that his prejudices were "those of a system not of a party," and that his theory, founded upon them, influenced his opinion and even coloured his narrative. He further says, that in giving the



character of James “on his abdication, he shewed him “more favour than he probably would have done, if he “had known all that has since transpired\*.” If then Mr. Fox’s private letter has adopted Mr. Rose’s own sentiments, and characterised Mr. Hume, as Mr. Rose himself would have done, how can his having drawn so true a character be a special reason for subjecting his Historical Work to a free examination? however, Mr. Rose, breathing the atmosphere of party, continues to retain his suspicions, and has carefully selected every passage in Mr. Fox’s work, with the addition of others not to be found in it, which could by any possibility tend to shew that he thought hostilely or even lightly of monarchy. But it cannot be supposed for a moment that Mr. Rose could have in view, by dwelling upon the expressions used by Mr. Fox to enforce his opinion of an individual writer, to induce a belief in careless readers that they were meant to be applied to monarchy itself.

The same private letter has given rise to a paragraph tending to illustrate the spirit, in which Mr. Rose’s Observations were penned. Mr. Fox, after complimenting Mr. Laing upon his History of Scotland, which had been recent-

\* Rose’s Introduction, p. xii.

ly published, says, "it is a most valuable acquisition, and will  
" serve to counteract the mischief which Hume, Dalrymple,  
" Macpherson, Somerville, and some others of your country-  
" men have done. You will easily believe that I do not  
" class Hume with the others, except as to the bad tendency  
" of their representations\*." The attack is commenced by an  
insinuation, that Mr. Fox had started with a prejudice against  
some other historians, besides Mr. Hume, (who is admitted  
to be a prerogative writer) from a general idea of their  
" toryism but without giving any reasons for his censure of  
" them. Some of them," Mr. Rose says, "he appears not to  
" have read, characterising them without distinction under  
" one general description, whose principles of historical dis-  
" cussion seem to be entirely opposite. And in particular, if  
" Mr. Fox had ever read Somerville's History, he must have  
" strangely forgotten what he met with in it, to have classed  
" him with Hume and other prerogative writers."

Here we must repeat the remark that the passage, now  
criticized as part of Mr. Fox's work, is a paragraph in a  
private letter, written when his work was but just begun,  
and therefore, if he had been too indiscriminate in his censure,

\* Fox, Pref. p. xxi.



or had not even read the works of the authors named, it does not follow that he did not afterwards read them, and acquire a more accurate knowledge of their respective merits. Mr. Rose's observation might be true, when the letter was written, and yet unfounded when the further progress of the Historical Work was interrupted by the duties of office; and subsequent sickness and death of the author.

Mr. Rose proceeds on the assumption that Mr. Fox had not read these writers, because he gives no reason for his censure. Upon referring to the passage, the reader will find two reasons expressly given, namely that they had "done mischief," and that their representations had a bad tendency. Hume and Macpherson, Mr. Rose himself acknowledges, may be reckoned amongst the tory writers, and he gives a reason why Dalrymple has been suspected to belong to them; but he struggles hard to preserve the zealous whig historian, Somerville, from so odious an imputation, and charges Mr. Fox, if he had ever read his history, with having "strangely forgotten what he had met with in it, to have classed him with Hume, "and other prerogative writers\*." It turns out then at

\* Mr. Rose's Introduction, p. xiii.

last, that Mr. Fox's observation is admitted to be well founded, as to all the authors he mentions except one, and supposing it is acknowledged in return that he was mistaken respecting him, it does not prove that Mr. Fox had a prejudice against writers, merely because they were suspected of toryism. The amount of the charge is that, in writing to a private friend, he inadvertently inserted a name, which if he had thought for a moment, (as he would have done if he had been writing his history) he might have omitted. Against such an error I am not solicitous to defend the memory of Mr. Fox. It might have happened to any man, and fortunate indeed would Mr. Rose have been even with his shield of official accuracy if he could defend himself as well from charges of more serious aspect. But we are not called upon to admit that there has been any mistake, for, notwithstanding Somerville was a whig, Mr. Fox may have disapproved of his history, and been deliberately of opinion that he ought to be placed in the class, from which Mr. Rose is so anxious to rescue him:

Another instance tending to shew the careless manner in which the Observations have been written, occurs respecting a quotation\*, supposed to be made from Mr. Fox's work,

\* Fox, p. vi.



respecting Lord Bolingbroke. It is stated to begin thus, " Mr. Fox says ' Bolingbroke in particular had confounded," &c\*." Here Mr. Rose has made two mistakes, for neither in the Historical Work nor in any published letter of Mr. Fox is this paragraph found, and the passage to which it is presumed allusion is made, for he has omitted to refer to it, contains no assertion, but an inference only. By turning to the sixth page of Lord Holland's preface, the reader will find that the words quoted were written by him, and contain only an inference which he, and not Mr. Fox, had drawn from his own observation. The sentence begins, " it could not escape the observation of Mr. Fox, "that" &c. " and that Lord Bolingbroke in particular had "confounded" &c. For the justness of the remark Lord Holland only is responsible, but the terms, in which it is expressed, preclude the idea of his intending to state positively that Mr. Fox entertained the opinion, he only infers that such must have been his opinion from the conviction impressed upon his own mind. This quotation serves as the Introduction to five pages of extraneous matter, consisting chiefly of what Mr. Rose had heard the late Lord Marchmont say, he had heard the late Lord

\* Mr. Rose's Introduction, p. xxvi.

Bolingbroke say. Under what influence or bias these mistakes were made it is not very material to inquire, but they do not exhibit a favourable view of the official accuracy, to be expected in the ensuing pages of the Work in question.

To Mr. Rose the acknowledgments of the public are due for the communication of Sir Patrick Hume's Narrative, but the friends of Mr. Fox have peculiar reason to rejoice at it, for that Narrative confirms in every particular the observations he has made upon Sir Patrick Hume's conduct. If Mr. Rose had been aware of this, he probably would not have published it, or at all events would not have declared the object of its publication to have been the vindication of the memory of Sir Patrick from charges, which it does not contradict, but support. Mr. Rose must possess a most delicate sensibility of nerves to have been affected, as he describes himself \* to have been, at the perusal of the Historical Work; but whether he was actuated by the impulse of personal respect to Lord Marchmont's memory, or by the particular interest he felt in the story and character of his illustrious ancestor is not quite clear.

\* Mr. Rose's Introduction, p. iii.



The object of this tender interest died in the year 1724. But because he had been the "ancestor of a man", who had treated Mr. Rose as a parent, and he conceived he had the means of justifying him in his possession, he could not bear that severe and unmerited reflections should be adopted in his day without being noticed; he could not remain silent. This Mr. Rose avows to be "his sole motive at first for deciding to publish on the subject." It has been observed already that Sir Patrick Hume's Narrative, thus published for his justification, proves that the reflections, which occasioned it, were well founded, as we shall shew in the subsequent pages. Mr. Rose's respect for the memory of one, who had been 85 years numbered with the dead, is the more striking, as it shews that he was more feelingly alive to the reputation of this ancestor of his friend, than that ancestor himself had been. Mr. Rose says, that "Sir Patrick Hume, from anticipation as it would appear, of the obloquy which is apt to be fastened on men concerned in unfortunate enterprizes, drew up during his residence in Holland, before he was joined there by his family, a narrative of the rise, progress, and issue of the expedition of the Earl of Argyle in as far as he was himself concerned, which is the

“ paper I am anxious to publish\*.” If the obloquy, here alluded to, was to be anticipated, the narrative could not be intended as an answer to those reflections which have given Mr. Rose so much pain, for Argyle had given currency to them before the Narrative was drawn up, as appears from the Narrative itself. He was executed on the 30th of June, 1685†, but the time when Sir Patrick fled into Holland, is not exactly ascertained by the documents published by Mr. Rose. It is probable however, that the Narrative was not composed till some time after Argyle’s death, it is almost impossible that it could have been written till that event had taken place, and Sir Patrick Hume acquainted with the charge made upon him. The passage alluded to was written by the Earl of Argyle 38 years before the decease of Sir Patrick Hume; and we may reasonably give him credit for feeling the circulation of the supposed calumny with at least as much keenness, as Mr. Rose can do now. Yet for that length of time did he submit in silence to the charge, which it is manifest he felt most sorely; but he did not

\* Mr. Rose’s Introduction, p. v.

† Rapin says, Argyle was taken on the 17th of June, 1685, 28 days after he landed in Scotland, and he was executed 13 days after, viz. on the 30th of June.



publish his Narrative, though it was written expressly "for the nation, his friends, and his family." The question naturally occurs why then did he not publish it, as it was clearly his intention to do when he wrote it? For though it might have been unsafe to publish it before the revolution, it might have been circulated without danger afterwards. Probably he was aware that it would be no answer to what Argyle had written of his conduct.

In his Introduction Mr. Rose takes for granted, that Mr. Fox had a wish to favour Argyle and acquit him of misconduct in his enterprize, at the expence of the character of Sir Patrick Hume. But if Mr. Rose is right in the supposition that Mr. Fox was also strongly prejudiced in favour of every body who felt indignation at the abuses of monarchy, upon what principle are we to account for his willingly sacrificing the reputation of Sir Patrick Hume, who was unequivocally engaged in an attempt to correct those abuses, or feel pleasure in the giving currency to reports derogatory to his honour and his courage? Mr. Fox must either not have felt the general prejudice above mentioned, or it did not pervert his judgment, or deprive him of the power of discriminating between the merits of individuals entitled to the benefit of it, or appreciating truly their respective

characters. The charges made by Mr. Rose are not consistent with each other, for if Mr. Fox had been the slave of prejudice, and favoured all those who felt indignation at the abuses of monarchy, he could not have wilfully detracted from the character of one of the most zealous champions against them.

It may be proper to notice here a remarkable instance of carelessness in an author, who boasts of superior accuracy, for he describes the notes of Lord Dartmouth, on which much reliance is placed afterwards, to have been written by the second Earl of that name\*. The fact is that the writer was the *first* Earl. No improper propensity or motive is imputed as the cause of this mistake, though it materially affects the authority of the notes themselves.

Before we proceed to explain the object of the present publication, it may be proper to notice some observations of a general nature which are found in Mr. Rose's Introduction. In some respects, he seems to think himself peculiarly qualified to write a history, or to make observations upon the histories of others. He was the intimate friend of Lord Marchmont, and had seen Hume the historian very frequently; he

\* Mr. Rose's Introduction, p. xxxiii.



was accustomed to official accuracy, had read much and thought more upon the history of his country, and agreed with Mr. Fox that there are certain periods, at which the mind naturally pauses to meditate upon. Fortunately too he had had the custody of some records, and had expressed an opinion of our constitution in a report made several years ago on their state, to support which he enters into an elaborate discussion. He quotes Lord Coke, Plowden, Lord Ellesmere, Whitelocke, Domesday Book, the Rolls of Parliament, Abbot's Records, Rymer's Fœdera, and Dugdale's Origines. Strongly attached to the species of history approved of by Mr. Fox, he has long lamented the want of such a work, and thinks it even culpable in the latter to have confined himself to one period only, including the re-establishment, as he is pleased to term it, of our liberties in 1688. He seems also to feel disappointment, that Mr. Fox should have left only so small a fragment behind him, but is not satisfied with the manner in which it is written. To prove that he is a competent judge upon the subject, he recommends Vertot's \* *Revolutions of Rome*, and tanta-

\* This recommendation of Mr. Vertot by a person accustomed to official accuracy is rather extraordinary ; for it is a well-known anecdote, that when his history of Malta was preparing for the press, notes of the transactions at the siege, taken by an eye-witness, being sent to him, he declined to use them, saying, *Mon siege est fait*.

lizes his readers with the mention of a short History of Poland, of which he thought so highly as more than forty years ago to translate and present it to his Majesty. He does not give us the title of this model of perfection, but consoles us with the information that the MS. is probably still remaining in the royal library. He was so well pleased with this performance, that he had even then in contemplation to write the History of his own country upon the same plan, but modestly gave it up from a sense of his own incompetency. In short we might be led to believe that, thinking and having always thought as Mr. Fox did upon the subject of history, he is better qualified than others to examine the facts, arguments, and opinions of a person, who entertained sentiments so nearly similar to his own. In imposing upon himself this task, Mr. Rose seems fully aware of its difficulty, for he says in one place, Mr. Fox was a man of "splendid," in another, of "transcendant," in a third, of "eminent" talents. He speaks of his most excellent natural memory, and of his possessing a powerful mind bent to political, and historical subjects. He acknowledges that he is not equal to Mr. Fox in argument, and, when they differ, wishes the point in dispute may be decided by the authorities produced. In the ensuing pages however, it cannot escape observation that he is not more successful in his appeal to authorities, than he must have been in argument with Mr. Fox.



After having mentioned his having long lamented the want of a work, which would illustrate the most interesting periods of our history, he states in the style of complaint against Mr. Fox, that this *desideratum* he had it not even in contemplation to supply, but confined himself to what is however stiled, “undoubtedly the most interesting event “in our history.” It seems here to be forgotten that Mr. Fox, out of the most important events of our history, had selected for the object of his literary labours that, which Mr. Rose himself admits to be undoubtedly the most interesting. And, as it would have been impossible to select and write upon them all at once, we might have expected Mr. Fox’s conduct, in this particular, would have met with the most unqualified approbation. But the next objection is to the manner in which the design has been executed, and here no mercy is shewn: it is stated that Mr. Fox had employed some years of his valuable time in writing the history of a short period only, concerning which, though eventful in itself, former writers had produced every thing essential, and then Mr. Rose undertakes to demonstrate that the transcendant talents “of the one now under consideration, assisted by the “industry of himself and his friends, did not enable him “to bring into view one new historical fact of any importance, or to throw an additional gleam of light on any

“ constitutional point whatever.” But the remainder of the sentence shews that the writer felt the position he was laying down was not tenable in its full extent, for it is added not very consistently, “ but that on the contrary he has “ stated with confidence some facts which are at least “ *extremely doubtful*, on which some of his reasoning is “ founded.” Mr. Fox then has brought into view, and has stated some facts, which, being extremely doubtful, had not before probably, as applied to the subjects alluded to, been under the consideration of Mr. Rose. But never was an assertion more rashly hazarded ; first of all it must be remarked that Mr. Fox himself in a private letter says, as to the introductory chapter to his work, “ that it was rather “ a discussion alluding to known facts, than a minute “ enquiry into disputed points.” The design of his work, therefore, did not make it necessary for him to bring into public notice any new facts previous to the reign of James the Second, when his history, in truth, commences. Even in that reign, the period, comprehended within the small fragment which has been published, is so short, and the topics treated of so few, that it would not be reasonable to expect that he should have made any very important additions to the facts, which had been already communicated to the public. But in Mr. Rose’s Introduction, we have already



pointed out an instance of Mr. Fox having brought into notice one historical fact of considerable importance\*. For in Barillon's letter of the 7th December, 1684, an interesting and novel view is exhibited of the principles, on which our American colonies were then governed, especially if Mr. Rose's emendation of the translation be adopted.

The imputations, cast upon Mr. Fox in the Introduction to the Observations, are certainly of a very serious nature, deeply affecting his fidelity and accuracy, as a historian. Mr. Rose, it seems, had a sort of general indeterminate feeling impressed upon his mind that facts were sometimes mistaken or misstated, and deductions formed on very insufficient grounds, before he had a stronger and more painful conviction of Mr. Fox's failure in point of accuracy of representation in his account of the conduct of Sir Patrick Hume. His injustice in this respect forcibly struck Mr. Rose, nay, so strongly did it affect him, that it was his *sole motive* at first for deciding to publish on the subject. This was his first inducement to examine attentively the Narrative of Mr. Fox. That Mr. Rose really experienced the general indeterminate feeling, which he describes, there is no reason to doubt. But it arose *before* he had

\* Fox, App. p. viii.

perused that part of Mr. Fox's Narrative which relates to Sir Patrick Hume, and even before he had perused *attentively* any part of it\*. We may, therefore, fairly doubt, whether that feeling was to be attributed to the perusal of the work itself, or to a predisposition to find fault, arising, unknown to himself, from his still breathing that pestilential atmosphere of politics, which he supposes to have clouded the understanding and perverted the mind of Mr. Fox. Viewing the Historical Work through this medium, nothing could be right, nothing could be seen in proper order, and thus may we account not only for the unfounded complaint of injustice having been done to Sir Patrick Hume's character, but for the avowal of its being, at first, "the sole "motive" for his publication.

Upon Mr. Rose's *attentive* perusal, which must have been his *second*, he made that discovery, which, while he supposes it accounts for the defects in Mr. Fox's work, most clearly gives the clue to his own conduct. A certain political bias seemed to pervade the whole, and to be an uniform leading cause of partiality both in the Narrative, and the reflections, which made him doubt, whether the history was not

\* Mr. Rose's Introduction, p. iii and vii.



written to support the system, rather than the system adopted from the consideration of the history\*. Mr. Rose could not suppose that this part of the history of his country had been then, for the first time, brought forward to the consideration of Mr. Fox. No man was more familiarly acquainted with it, and no man certainly had been more happy in the selection of quotations from it in debate. Great political measures and events had recently called the attention of the public, in a particular manner, to what had happened previous to and at the time of the Revolution. Mr. Fox may have formed his political creed upon the principles of those great characters by whom that happy event was accomplished, to whom every man in this country is indebted for the property and security he enjoys, and whose memory cannot be less honoured by the monarch upon the throne, than the peasant in his cottage. Should this have been the case, and should Mr. Fox have conceived those principles to have been unjustly aspersed, and his own character misunderstood and misrepresented for having supported them, no apology would be necessary for his having selected that portion of our history, and entered into an explanation and defence of those principles, though at the same time he should have identified, and defended his own with them. It

\* Mr. Rose's Introduction, p. viii.

is almost impossible for any person to write a perfectly impartial history, even if he were to make an indiscriminate collection of facts first, and from them form an arrangement and deduce a system. That arrangement and that system must necessarily partake of the general principles of the writer. His habits of thinking, his prejudices, and his feelings, which he cannot have in common with any other individual, must direct his understanding, and colour his narrative. The material points to be attended to (which Mr. Rose says in the present instance he was particularly careful to examine) are that his facts shall be true, and his deductions and observations, naturally, or at least fairly, arise from them. Here it is that Mr. Rose thinks he has discovered many failures in the Historical Work, but arduous as the task may appear, we do not despair of shewing in detail that he is more frequently mistaken in the corrections he would suggest, than Mr. Fox in the passages objected to. Mr. Rose candidly makes the admission that notwithstanding all his failures in accuracy, Mr. Fox did not "*intentionally state a false fact,*" but the charge in this respect is, that he has not examined, with the utmost care and assiduity, the accuracy of what he asserts\*. This further reason is given for noticing those parts of the book which do not concern Sir Patrick Hume, that the mis-

\* Mr. Rose's Introduction, p. xiii.



takes which have been made and then reasoned upon, may be prevented from misleading the judgment of others. But though Mr. Rose in this place describes the object of his observations to be confined to Mr. Fox's mistakes in facts only, we shall find him venturing into the field of argument, and disputing some of his deductions from the facts he has related. Probably Mr. Rose may not have been aware of his having transgressed his own rule, or possibly his fears may have vanished at the moment, when he thought he had the political opponent of his patron and friend at an advantage.

The Historical Work of Mr. Fox has been treated with greater severity than posthumous publications have usually met with. This may be owing, in some degree, to a misapprehension of part of the Preface, which does so much honour to the head and heart of his noble relation, who undertook to perform the duty of an editor. In that Preface, care is most sedulously taken to guard against the expectation that the work itself was perfect, or left by the author as in a perfect state. In the first paragraph it is stated to be only a fragment and incomplete, and afterwards, when a reason is given for a peculiar desire to preserve the precise words and phrases of the author, it is again stiled "incomplete and unfinished."

But the scrupulous attention, which Mr. Fox is stated to have bestowed in ascertaining the truth of his facts, and the delicacy of his noble editor not to permit any alteration in the composition of the work, however imperfect the state in which it was left, have been mistaken for assurances that, both in substance and in stile, the author had perfected his design, and himself completed the copy for the press. Mr. Fox, having conceived that the most profitable mode of reading or writing history was to select certain of the most interesting periods, and enter into a separate investigation of the causes and effects of the events happening within each, formed the design of writing a separate history of the revolution. Unfortunately his death prevented the completion of his plan, and he has, besides his Introductory Chapter, left in an unfinished state, the history of little more than the first five months of the reign of James the Second. During that short period he has confined himself to the political occurrences, and dismissed from his consideration every thing, which might distract the attention of himself or his readers, from the main object he had in view. This part of his work is comprized in about 200 quarto pages, in which the reader is presented with a narrative of events, detailed with an accuracy and perspicuity, which will be found



in few historians, accompanied with observations and deductions, which may be considered almost as so many political aphorisms. His stile is simple but nervous, and in many places eloquent; that it is not always equally so may be owing in a great degree to the unfinished state, in which this fragment has seen the light. The superior powers of his mind may be traced in almost every page, and the principles he has developed and supported are those, by which that great event must be defended, which gave liberty and prosperity to a great people, and placed the illustrious House of Brunswick upon the British throne.

Perhaps the partiality of friendship may have made me less observant than others of the defects in this work, but it has always appeared to me to be a permanent monument to the fame of Mr. Fox as a historian, and to furnish additional cause for deep regret, that he was taken from his country and his friends, before he had completed his plan. Short as the fragment is, "with all its imperfections on its head," it is a most interesting exhibition of the principles of a great political character, not as advanced or supported in debate, but as deliberately written in his closet. He has himself given the true standard, by which the honesty

of his political conduct may to a certain extent be measured. Every one may now form a judgment how far he has swerved from his principles, and whether truly or not, he is entitled to the high distinction of being ranked among those few statesmen, who have honestly made the good of their country the object of their best exertions. In the course of our examination of the Observations we shall have occasion to draw the attention of the reader to some of the political principles of Mr. Fox, and he may have an opportunity to judge whether they are deserving of Mr. Rose's animadversions. It may suffice to say here, that Mr. Fox appears uniformly throughout his work to have been a friend to a limited monarchy; to the existing form of government under which he lived, vested in a King, Lords, and Commons.

I could have wished that the defence of Mr. Fox had been undertaken by some person better qualified to do justice to his memory, but having waited thus long without success, I venture to obtrude myself upon the public. For many of the latter years of Mr. Fox's life, he honoured me with a considerable portion of his confidence; ever affable, kind, and obliging, it was impossible to associate with and not love him. The candour, openness, and simplicity of his heart left no room for suspicion or doubt, and



no man ever enjoyed more, the full, the warmest confidence and affection of those, who had the good fortune to be ranked in the number of his friends. The storms of party could not ruffle the gentle current of his benevolence, no political disappointments soured his temper, and he died, as he had lived, an amiable example of a great statesman, beloved, as well as revered by all around him.

With the feelings described in the last paragraph, I certainly perused Mr. Rose's work with a considerable degree of indignation. I found there, quotations not correct, arguments not logical, deductions not justified by the premises, observations not founded, and in short, as I then thought, such unfair advantage taken of the unfinished state of Mr. Fox's fragment, as to justify the imputation of an unworthy attempt to detract unjustly from the reputation of its author. Upon further investigation, however, I have been induced to alter my opinion, for discovering that the same want of accuracy, both in fact and argument, and the same culpable carelessness attend those parts of the work, which have no reference whatever to Mr. Fox, I no longer impute to its author any improper motives. In the ensuing pages, therefore, it will be taken for granted upon every occasion, that he has done his best to be correct, and even candid,

and impartial; and that whatever errors may be detected have arisen from any other source than a wilful perversion of the heart. Personally I have no acquaintance with Mr. Rose, and profess to know nothing further of his private character or pursuits, than he has been pleased to disclose concerning himself in his Observations. Against him I have no feeling of personal hostility, no wish to depreciate his literary labours. In the following sheets all the objections, in any degree material, which have been made to Mr. Fox's work, will be noticed in their order, and if some of the mistakes pointed out should appear to be very minute, the reader will have the goodness to recollect, that, though trifling in themselves, they are important to prove the systematic carelessness, with which the Observations have been written. If any of Mr. Rose's arguments shall have been misapprehended, or any of his facts incorrectly stated, I shall be happy in an opportunity to acknowledge my errors.

In this preface some observations have been made upon Mr. Rose's Introduction. The subsequent work will be divided into sections, the four first of which will be made to correspond with the Chapters of his book. The fifth Section will be appropriated to a more extended view of the great question, in contest between Mr. Fox and Mr. Rose, viz. whether the love of arbitrary power or bigotry in



religion was the ruling passion of James the Second at the beginning of his reign, than could be conveniently entered into in the two preceding Sections, which are appropriated to the examination of Mr. Rose's authorities and arguments. The sixth Section will contain an answer to the last chapter of the Observations.

A few months only have elapsed since I formed the design of answering Mr. Rose's book, but being in the habit of occasionally inserting loose facts, and disjointed arguments in its margin, almost every part of it appeared at last to be explained or answered. These marginal notes have now been reduced into regular form, but this could be done only in the times of vacation, and at irregular intervals. Of course there may be some repetitions, and not only defects in composition, but it is to be feared in statement and argument also, though considerable pains have been taken to guard against them. But whatever errors may be found, it is hoped that there will be none to affect the general reasoning of any part of the Work.

It may be proper to mention that the Octavo Edition of Sir John Dalrymple's Memoirs, to which reference is made in the following sheets, is not paged conformably to the Quarto.

## SECTION THE FIRST.





## CONTENTS.

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Mr. Fox's Periods of English History.—Comparison between the Proceedings of Charles the First and the Earl of Strafford.—Observations on the Trial of Charles the First.—Sentiments on that of Lewis the Sixteenth.—Second Period of English History.—Character of General Monk.—Comparison between Cromwell and Monk.—Charge against Monk for Preventing the Imposing of Limitations on the Crown.—Observation that Restorations are usually the worst of Revolutions.—Insult offered to the Corpse of Blake.—Monk's Connection with, and base Conduct to, the Marquis of Argyle.—Extract from Skinner's Life of Monk.—Era of Constitutional Perfection in 1679.—Abolition of the Court of Wards.—Writ de Heretico Comburendo.—Bill for Triennial Parliaments.—Mr. Rose less a Friend to the Rights of the Crown than Mr. Fox.—Pleading a Pardon in Bar of an Impeachment.—Expiration of the Licensing Act.—Habeas Corpus Act.—Importance of Judges being Independent.—Oppression under good Laws and bad Ministers.—Charges against Mr. Fox not founded.





## A VINDICATION, &c.

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### SECTION THE FIRST.

MR. ROSE feels so strong an attachment to the early periods of our history, that he begins his observations in apparent displeasure at Mr. Fox, for having passed them by without notice, and commenced his historical labours only at the latter end of the fifteenth century. He then states, that Mr. Fox distributes the periods, into which his work is divided, after the latter end of the fifteenth century, in a manner not quite intelligible. This charge comes upon us rather by surprise; for though Mr. Rose had thought he perceived a constant bias, operating powerfully on Mr. Fox's mind, he had given us no reason to suppose that it would make him write unintelligibly. That he divides his periods in a different manner from what Mr. Rose would do may be admitted; but the text is not obscure.

#### SECTION I.

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Mr. Rose's Ob-  
jections to Mr.  
Fox's Periods of  
English History.



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I.  

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The commencement of the first period objected to, is fixed at the year 1588, and ends at the year 1640. To this arrangement Mr. Fox was naturally led by the consideration, that the preceding period, from the accession of Henry the Seventh to 1588, was one, in which the political state of the country was materially changed by regulations, of which tyranny was the immediate, and liberty the remote consequence. The next succeeding period he describes as one, in which, by the cultivation of science, and the arts of civil life, during a season of almost uninterrupted tranquillity and peace, there was a great general improvement in the people, but particularly in their manners and style of thinking. The distinction between the two periods cannot be mistaken by an attentive reader. Mr. Rose makes no objection to the commencement of this period, but would extend it so far as to include the whole of Elizabeth's reign, and gives four reasons for objecting to its concluding earlier. The first is, because there was no change of system in the government of Queen Elizabeth during her whole reign. To this it may be answered, that the second period is selected, not on account of its political features, but the general improvement of the people, which advanced more rapidly, because there was no change. And we may ask, how the steadiness of her government can be used as an argument on either side, or render her reign more fit to be placed in one period or the other ?—The next reason is, that the authors, to whom

Mr. Fox justly attributes the astonishing progress of literature, wrote in her reign. They certainly did, and for that reason, the part of her reign, in which the effect of their writings began to be felt, is included in the same period with the reign of James the First, and part of that of Charles the First, under whom the improvement she had introduced was still making regular progression.—The third is a remarkable instance of that sort of incoherent reasoning, to which Mr. Rose has frequently recourse. He says, it does not appear why our tranquillity having been uninterrupted should have influenced Mr. Fox's decision in this respect, "because our being at peace or "war could have no effect on our constitution." Can this have been seriously thought, and deliberately written by Mr. Rose, who has taken a most active part in the politics of this country for the last thirty years? Without entering into the discussion of disputable and temporary questions, can it be denied that the burdens necessarily laid upon the people to maintain wars, and the tyrannical pressure of the feudal system in periods of public hostilities, did not add to the influence of the crown, and operate to the depression of the other branches of the legislature? And has our constitution, in modern times, undergone no changes, owing to those burdens? Has the funding system introduced no alterations? Desperate indeed must be the cases, in which the House of Commons could now be justified in disregarding the claims of the public creditors, and withholding the supplies; or the crown advised to



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give its negative to a bill which should have passed both houses of Parliament. But, farther : does Mr. Rose doubt that a series of years, passed in uninterrupted tranquillity, must be favourable, in any reign, to the pursuits of literature? And, if so, might not this circumstance powerfully influence the mind of Mr. Fox in fixing the limit of the period in question? And may we not suspect that Mr. Rose here is arguing, more for victory than conviction, and looking more to the fame of defeating his adversary, than the justice of the cause, for which he combats?—The fourth objection is, that “ as little should the “ observation of Mr. Fox respecting the additional value “ that came to be set on a seat in the House of Commons “ have been a guide to him.” Mr. Fox had not in contemplation, as Mr. Rose seems to have had, the pecuniary price paid for a seat in the House of Commons ; he meant that, in the general estimation of mankind, its members were become more honourable and respected, and a seat more the object of ambition than it had been before. He did not allude, as to a market price, for a commodity, which cannot legally be sold at all. But what is the amount of Mr. Rose’s argument? That in the year 1571, a seat having been purchased for five pounds, Mr. Fox’s observation, that, at a subsequent period, an additional value was set upon one, is not well founded. This is certainly not very conclusive reasoning ; for a seat might be sought after in 1571, and yet be more an object of anxiety in 1588, or 1640. But here we have a

striking instance of carelessness in this most accurate writer, for the sum given for the seat, in the case alluded to, was not five pounds, but four pounds, and the story is told not in the fifth volume of the Journals, which he refers to, but the first.

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Mr. Rose next objects to the observation, that "the execution of the King was a far less violent measure than that of Lord Strafford," but in thus selecting a single sentence, without stating the whole context, he has not done justice to Mr. Fox, who had before said; "the prosecution of Lord Strafford, or rather, *the manner in which it was carried on*, was less justifiable" than the proposed regulation with regard to the militia; and afterwards added, as the reason, that "nothing short of a clearly proved case of self-defence can justify or excuse a departure from the sacred rules of criminal justice." The passage in a subsequent page, to which Mr. Rose objects, must therefore be taken to refer to the manner in which the trial of Lord Strafford had been conducted, and not to the prosecution itself; and the extent of Mr. Fox's observation to be, that the execution of the King was, in that respect only, a far less violent measure than that of Lord Strafford. Mr. Rose says, that Mr. Fox has given no reason, or statement, on which he founds that opinion, but it unfortunately happens for the argument, that Mr. Fox has, as above stated, expressly given

Proceedings  
against Charles  
the First and  
Earl of Strafford  
compared.  
Rose, p. 6.

Fox, p. 10.



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his reason, viz. that the sacred rules of criminal justice had been departed from.

Rose, p. 7.

Mr. Rose, then asserts, what will not be disputed, that bills of attainder have passed upon several other occasions, and then proceeds to explain the circumstances of violence and injustice, which distinguished Lord Strafford's case, and to which Mr. Fox had only generally alluded. In a note, he informs us further, that so highly did the House of Lords disapprove this measure after the Restoration, as to make an order for obliterating all the proceedings relating to the bill of attainder in their journals. For what purpose this information is given, except to corroborate the proposition he sets out with combating, it is not easy to conceive.

n. 8.

Mr. Rose, however, soon loses sight of the passage in Mr. Fox's book, and substitutes another for it, which certainly is more liable to objection, for he supposes Mr. Fox to have made a comparison between the injustice and enormity of Lord Strafford's case and that of the King. Now it so happens, that Mr. Fox has not written a word of comparison between the injustice and enormity of the cases, but only between the violent measures of the respective executions.

This unauthorized alteration of the passage serves as an

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introduction to a charge upon Mr. Fox, of not having attended "to the distinction between an abuse, or breach  
" of a constitutional law, and a total departure from,  
" or overturning, the constitution itself." But, as this distinction does not exist between the two cases, it was not necessary to attend to it. The constitution had been overturned before the trial of the King, the army had ceased to be the servants, and as Mr. Fox Fox, p. 1a. rightly expresses it, had become the masters of the Parliament, and "being entirely influenced by Crom-  
" well, gave a commencement to what may, pro-  
" perly speaking, be called a new reign. The sub-  
" sequent measures, the execution of the King, as  
" well as others, are not to be considered as acts of the  
" Parliament, but of Cromwell, and great and respect-  
" able as are the names of some who sat in the  
" high court, they must be regarded, in this instance,  
" rather as ministers of that usurper, than as acting  
" from themselves." Nothing can more strongly mark the sentiments of Mr. Fox, as to the illegality and injustice of the trial of the King, than this passage; for he describes the court which tried him, to have consisted of the ministers of an usurper. The violence of republicanism did not, in Mr. Fox's mind, set aside all considerations of the monarchical part of the constitution, for that had been destroyed before, and he would not have disputed the remark of Mr. Rose.



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that there was no example, by which the trial and execution of the King could be sanctioned.

The execution  
of Charles the  
First.

Mr. Fox enters into a laboured discussion respecting the execution of the King, and he is the most unfortunate of all historians, if after having occupied four pages in endeavouring to prove, that it was neither just nor necessary, and the example of it not likely to be salutary but pernicious, he could be liable to the charge of having justified it. Many of his private friends must know, that he frequently spoke of this event in terms of the highest disapprobation, and that he made no secret of his thinking even less favourably of the execution of the ill-fated monarch, Lewis the Sixteenth. But, because, in discussing the justice of the execution of Charles, he says, "Mr. Hume not perhaps intentionally, makes the best justification of it" by saying, that while Charles lived, the projected republic "could never be secure;" and then endeavours to shew, that even this justification, the best which can be made, is not sufficient, Mr. Rose seizes the proposition which Mr. Fox disapproved of, and had stated only to answer, seriously objects to it as an original observation of Mr. Fox himself, and then concludes with denying that Mr. Hume attempts to set up such a justification. Here Mr. Rose is certainly mistaken, for Mr. Hume does set it up, by describing the measure, as one which was thought *requisite for the advancement of the common ends of safety*, and ambition of those, who promoted it.

Fox, p. 13.

Hume, vii. p.  
137.

Mr. Rose ought not to have withheld the words, which immediately follow the passage he has cited from Mr. Fox, they are, " But to justify taking away the life of an individual upon the principle of self-defence, the danger must be not problematical and remote, but evident and immediate. The danger, in this instance, was not of such a nature," &c. Here Mr. Fox is arguing in favour of the opinion of Mr. Rose, that the execution of Charles the First is not to be justified, and Mr. Rose may rest in peace, in full assurance that even the defence made for it by Mr. Hume is not to be supported.

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Fox, p. 13.

The petty observations already noticed are only introductory to the grand charge against Mr. Fox, of entertaining sentiments, which " must in the minds of many excite considerable astonishment." The passages alluded to are these, " among the modes of destroying persons in such a situation," (i. e. as monarchs deposed), " there can be little doubt but that adopted by Cromwell and his adherents is the least dishonourable; Edward the Second, Richard the Second, Henry the Sixth, Edward the Fifth, had none of them long survived their deposition; but this was the first instance, in our history at least, where of such an act it could be truly said that it was not done in a corner." And afterwards, " After all, however, notwithstanding what the more reasonable part of mankind may think upon this question, it is much to be doubted, whether this singular pro-

Rose, p. 10.

Fox, p. 14.

p. 16



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“ceeding has not, as much as any other circumstance,  
 “served to raise the character of the English nation in  
 “the opinion of Europe in general. He, who has read,  
 “and still more, he who has heard in conversation, dis-  
 “cussions upon this subject by foreigners, must have  
 “perceived, that even in the minds of those who con-  
 “demn the act, the impression made by it has been far  
 “more that of respect and admiration, than that of dis-  
 “gust and horror. The truth is, that the guilt of the  
 “action, that is to say, the taking away the life of the  
 “King, is what most men in the place of Cromwell and  
 “his associates, would have incurred; what there is of  
 “splendour and magnanimity in it, I mean the publicity  
 “and solemnity of the act, is what few would be capable  
 “of displaying. It is a degrading fact to human nature,  
 “that even the sending away the Duke of Gloucester was  
 “an instance of generosity almost unexampled in the  
 “history of transactions of this nature.”

Before we enter into an examination of the senti-  
 ments contained in this paragraph, which have excited  
 to so great a degree the astonishment of Mr. Rose, it will  
 be proper to notice a mistake, made by him in the few  
 words, which introduce them to our notice. He says,  
 “according to Mr. Fox, our horror at the atrocity of the  
 “King having been put to death, *is to be abated* by the  
 “publicity of the act.” Here Mr. Rose, through inad-  
 vertency, has so expressed himself, as to lead his readers

to the inference, that Mr. Fox has said the horror *ought to be abated*; but the sense of the passage is, that it was in some degree abated, or rather the mode, in which it was done, did in fact excite less horror from its publicity, than it would have done, if it had been less public and solemn. Mr. Fox relates its effect upon the human mind, not his opinion that such ought to be its effect. He states it as a fact, and gives no reason for it, but the rarity of such open, public, and avowed proceedings, attending the violent death of a prince.

The principal objection of Mr. Rose to the sentiments above alluded to is, that the publicity and solemnity of the act could be no abatement of its atrocity, for it could neither be an alleviation of the misery of the King, nor inspire foreigners with respect, to make a public degrading exhibition of him, to expose him to insult, and to humiliate him, by charging him before the instruments of Cromwell, who were appointed to try him. Here Mr. Rose has misstated, not wilfully, we admit, the sentiments of Mr. Fox; for, it is not said, that the publicity of the act abates its atrocity, but that few would be capable of displaying the splendour and magnanimity, which Cromwell and his associates did in the publicity and solemnity of the act. And these sentiments, which Mr. Rose can hardly imagine could have entered into the human mind, to conceive, are found, with increase of astonishment let him learn it, in the mild philosophical temperament, Rose, Intr.p.xii.



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I.Hume, vii. p.  
141.

(as he describes it) of Mr. Hume, who warmed with almost enthusiastic rapture, speaks of the trial of Charles in the following glowing terms. "The pomp, the dignity, the ceremony of this transaction corresponded to the greatest conception, that is suggested in the annals of human kind; the delegates of a great people sitting in judgment upon their supreme magistrate, and trying him for his misgovernment and breach of trust."

Ib. p. 140.

Here Mr. Hume, as well as Mr. Fox in the passage objected to, makes no allusion to the feelings of the individual concerned, but only to the solemnity of the mode of proceeding against him. Mr. Rose, however, with the dexterity of a man used to combat for victory, and not conviction, changes the ground, and without denying the fact he objects to, directs the attention of the reader to another subject—to the situation of the king, degraded, insulted, and humiliated, insisting that this mode of proceeding could neither alleviate his misery, nor inspire foreigners with respect. But it is not clear that the publicity of the transaction was not an alleviation of misery to the King, for Mr. Hume relates, that even after the ordinance for his trial was passed, he still was in dread every moment of a private assassination, and Harrison, in whose custody he was placed, endeavoured in vain to remove the impression; and, though Mr. Rose could hardly imagine it could enter into the heart of man to conceive, that the proceedings against the King could

inspire foreigners with respect, yet he allows Mr. Fox's assertion, that the execution of Charles had that effect to pass uncontradicted; contenting himself with saying, "as it would be difficult to form a probable conjecture as to the sentiments of foreigners, respecting the execution of Charles the First, it is not worth while to oppose the opinion of any, expressed either in writing or conversation, to those stated by Mr. Fox." It would be rather difficult to contradict this assertion, for no man had better opportunities, from his own reading and observation, of knowing the sentiments of foreigners upon the subject; but if it were not founded in truth, the reason given, namely, its difficulty, for not contradicting it, does not seem very satisfactory.

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Rose, p. 12.

We must now recal the attention of the reader to another part of the passage quoted as above from the historical work, which has been made the foundation of a most unfounded and unjust insinuation, against the memory of Mr. Fox. "If such high praise," says Mr. Rose, "was in the judgment of Mr. Fox, due to Cromwell for the publicity of the proceedings against the King, how would he have found language sufficiently commendatory to express his admiration of the magnanimity of those, who brought Lewis the Sixteenth to an open trial!"

Mr. Fox's sentiments on the execution of Lewis the Sixteenth.

Rose, p. 11.

The reasoning of Mr. Rose in this sentence, is well



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worthy of notice. "If such *high praise*," says he, "was in Mr. Fox's judgment due to Cromwell," &c. What high praise? Simply this, that it is less base to execute openly, than to assassinate privately. And what Mr. Fox had said of the execution of Charles the First, he might, alluding to its publicity, perhaps, have said, of that of Lewis the Sixteenth, namely, that it was less atrocious than if he had been murdered in private; but Mr. Fox could have been at no loss to find language sufficiently strong to convey the degree of praise, which, on such a view of the subject, belonged to the judges who condemned him. Mr. Rose seems to think, that because Mr. Fox said something in extenuation of the execution of Charles the First, if it amounts even to extenuation, he must have said much in actual praise of that of Lewis the Sixteenth. But many reasons may be given why he should have condemned, as in fact he did condemn that act, without offering any thing in extenuation of it; it could be less excused by the plea of necessity, either from the character of the individual, or the circumstances of the times; it was less provoked by previous animosity and warfare; and even less remarkable for that appearance of splendour or magnanimity, which publicity can confer even on an atrocious act, among other reasons, because it was not the first instance of such an exhibition, and was obviously an imitation of that of Charles the First.

But we will not detain the reader by the further dis-

cussion of fallacious suppositions and hypothetical arguments, when the statement of a few plain facts will put an end to all speculation. For Mr. Fox has expressed and enforced his sentiments in the House of Commons, repeatedly, and upon the most public occasions. His declarations may, possibly, have escaped the memory of Mr. Rose, though at the time they were made he must have been present to hear them, and they were circulated, and made the topic of conversation and party dispute in every corner of the kingdom afterwards. At that period Mr. Rose was not only a member of the House of Commons, but in an official situation, which required his regular attendance upon its sittings. Mr. Fox had conceived, that his speeches relative to France had been grossly misrepresented, and in consequence of his complaints, a more than ordinary attention was paid, both within the House and without, to his words and expressions, whenever any event, connected with the revolution in that country, was under discussion. An anxious wish to vindicate himself from these aspersions, induced him to take more than one opportunity of declaring, in the House, his opinion upon the event to which Mr. Rose alludes.

A register of Parliamentary debates may not be always accurate in minute circumstances, or stating the precise expressions of a speaker, but it is not likely that the general substance of a speech should be mistaken, especially if the recollection of living witnesses confirms the written



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Parl.Reg. xxxiv.  
p. 183.

account. The Parliamentary Register states, that upon Thursday, 20th December, 1792, on the bringing up of the report of the Committee of Supply, granting 25,000 seamen, Mr. Fox said the proceedings with respect to the royal family of France, "are so far from being magnanimity, justice or mercy, that they are directly the reverse, that they are injustice, cruelty, and pusillanimity," and afterwards declared his wish for an address to his Majesty, to which he would add an expression, "of our abhorrence of the proceedings against the royal family of France, in which, I have no doubt, we shall be supported by the whole country. If there can be any means suggested that will be better adapted to produce the unanimous concurrence of this House, and of all the country, with respect to the measure now under consideration in Paris, I should be obliged to any person for his better suggestion upon the subject." Then, after stating that such address, especially if the Lords joined in it, must have a decisive influence in France, he added, "I have said thus much, in order to contradict one of the most cruel misrepresentations of what I have before said in our late debates; and that my language may not be interpreted from the manner, in which other gentlemen have chosen to answer it. I have spoken the genuine sentiments of my heart, and I anxiously wish the House to come to some resolution upon the subject." And on the following day, when a copy of instructions sent to Earl Gower, signifying that

he should leave Paris, was laid before the House of Commons, Mr. Fox said, "He had heard it said, that the proceedings against the King of France are unnecessary. He would go a great deal farther, and say he believed them to be highly unjust; and not only repugnant to all the common feelings of mankind, but also contrary to all the fundamental principles of law," &c.

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I.Parl. Reg. xxxiv.  
p. 193.

The execution of the King of France took place on the 21st day of January, 1793, and on Monday, 28th January, 1793, a message was presented to the House of Commons, laying before it the correspondence with Mr. Chauvelin, and the order to him, "in consequence of the atrocious act recently perpetrated at Paris;" and also communicating the necessity to make a further augmentation of his Majesty's forces, by sea and land. Upon this occasion, Mr. Fox said, "With regard to that part of the communication from his Majesty, which related to the late detestable scene exhibited in a neighbouring country, he could not suppose there were two opinions in that House; he knew they were all ready to declare their abhorrence of that abominable proceeding."

Ib. p. 327.

Two days afterwards, 1st February, 1793, in the debate on the message, Mr. Fox pronounced the condemnation and execution of the King to be "an act as disgraceful as any that history recorded: and whatever opinions he might at any time have expressed in private con-

Ib. p. 410.



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“ versation, he had expressed none certainly in that  
 “ House on the justice of bringing Kings to trial: re-  
 “ venge being unjustifiable, and punishment useless,  
 “ where it could not operate either by way of prevention  
 “ or example; he did not view with less detestation the  
 “ injustice and inhumanity, that had been committed to-  
 “ wards that unhappy monarch. Not only were the  
 “ rules of criminal justice, rules that, more than any  
 “ other, ought to be strictly observed, violated with re-  
 “ spect to him; not only was he tried and condemned  
 “ without any existing law, to which he was personally  
 “ amenable, and even contrary to laws that did actually  
 “ exist; but the degrading circumstances of his imprison-  
 “ ment, the unnecessary and insulting asperity, with  
 “ which he had been treated, *the total want of repub-*  
 “ *lican magnanimity in the whole transaction,* (for  
 “ even in that House it could be no offence to say that  
 “ there might be such a thing as magnanimity in a repub-  
 “ lic) added every aggravation to the inhumanity and in-  
 “ justice.”

Having by these extracts assisted the memory of Mr. Rose, will he say that he does not recollect the uttering of any of the expressions or sentiments contained in them? Will he now ask how Mr. Fox would have found language sufficiently complimentary to express his admiration of the magnanimity of those who brought Lewis the Sixteenth to an open trial, when, in Mr. Rose's presence, he

had repeatedly declared their conduct to be unjust, inhuman, and detestable, and to be totally wanting in magnanimity? Mr. Fox complained, that the most cruel misrepresentations of the language he had used in debate, had been circulated, but for them might be urged the heat of the moment, and the cry of a party; Mr. Rose has no such excuse to make: he writes coolly seventeen years after the event alluded to happened, when both his patron, and his political opponent are resting undisturbed in the silent grave; and all personal animosity between their former adherents might reasonably be expected to be laid aside and forgotten. It may be thought too severe to impute to Mr. Rose a wish to revive, against the memory of Mr. Fox, calumnies which he had satisfactorily answered at the time they were spread abroad, and which had for many years lost their currency. But if Mr. Rose should be brought to the remembrance that Mr. Fox did, with great anxiety and feeling, declare his abhorrence, more than once, of the proceedings against Lewis the Sixteenth, will he think it is a sufficient apology for having made such a groundless attack, that he wrote his observations carelessly, and in haste, and that he did not recollect the circumstance? And what then becomes of his boasted claim to accuracy? Such a charge should not have been insinuated, without previous consideration and inquiry, and a full persuasion founded thereon, of its truth.



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Examples of de-  
stroying depo-  
sed princes.

Rose, p. 11.

Mr. Fox having, in the passages before cited, remarked, that among the modes of destroying deposed monarchs, that adopted by Cromwell and his adherents was the least dishonourable, and produced as examples of the more dishonourable, the deaths of the deposed princes, Edward the Second, Richard the Second, Henry the Sixth, and Edward the Fifth, Mr. Rose sagaciously remarks that, they "are of a kind too savage to be quoted as precedents of any proceeding, which can pretend to be of a legal or judicial character." Here the reader will observe, that Mr. Fox agrees with Mr. Rose, and accordingly classes all these cases among the more dishonourable ones; and that Mr. Rose himself is pleased to describe the proceedings against Charles as pretending to be of a legal or judicial character.

Mr. Fox's second period of English history.

Rose, p. 12.

Mr. Rose is not content with the second period marked out in the historical work, because, instead of ending in 1640, it might have included the reign of Charles the Second, or been extended to the Restoration; because the measures in the reign of James the First, and the early part of Charles the First, led to the consequences which ensued in the latter part of Charles the First, and the reign of Charles the Second. Hence we learn that a period, to meet Mr. Rose's approbation, should include not only the

consequences, but the remotest cause of them; in short, the history of the most ancient nation now existing should consist of only one period, or rather, every history must begin with the creation of the world, for that measure certainly produced the state of things existing at the present day. Mr. Fox's position at the outset of his work is, that in reading "the history of every country, there are certain periods at which the mind naturally pauses to meditate upon, and consider them with reference, not only to their immediate effects, but to their more remote circumstances;" and Mr. Rose, who had previously declared his agreement with him, now raises an objection, which militates against any division at all. The only question is, whether from the alteration, which actually took place in the government of this country in 1640; that was not a proper time to pause and meditate. With all due deference to the opinion of Mr. Rose, it may be thought that a more proper moment for the purpose can hardly be pointed out in our history. And even upon Mr. Rose's principle, it may be defended, for the measures he alludes to occasioned the devolution of more than ordinary powers upon the Commons in 1640; and the consequence of their putting them into use was, the overthrowing of the monarchy, and after its restoration a reign disturbed by acts of turbulence and violence, little less mischievous and destructive than an open



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civil war would have been. The termination of this period (the third) with the reign of Charles the Second, Mr. Rose also thinks was not well considered, because "the reign of his brother was surely not less remarkable for religious dispute and political contest than his own." Mr. Fox probably fixed the end of the third period, from the consideration that at that era his regular history was to begin; moreover the reign of James the Second being more remarkable for the religious contest he raised or inflamed, might have been a sufficient reason in his mind for separating it from his brother's. But the argument we have just used, will apply equally here, and the reader is desired to recollect for what purpose this division into periods was made at all, and then to consider whether the accession of the misguided monarch, whose whole reign was employed in hastening his own destruction by the folly and rashness of his conduct, was not a fit time, from which to trace the immediate causes of his ruin.

Rose, p. 13.

It remains to be noticed, that Mr. Rose is not correct, when he says that "Mr. Fox points out a particular year within that period," i. e. between 1640 and 1684, "when the constitution had attained its greatest perfection," for he has left out the word "theoretical," before the word "perfection," and also omitted to observe, that the opinion did not

originate with Mr. Fox, but is *quoted* by him from Mr. Justice Blackstone. But more of this hereafter.

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The character given of Monk in the historical work, is certainly not a favourable one, and Mr. Rose says, that in it "is a severity, neither supported by popular belief, nor by the authority of history." He then insinuates, that Mr. Fox was a friend to a republican form of government, adding, "the general contributed to the overturning a government, which Mr. Fox, with all his seeming partiality for one partaking much of republican principles, would not have ventured to recommend." He certainly would not have recommended it, nor would Mr. Rose have imputed such a partiality, if he had not been living in that political atmosphere, which he says so powerfully affects the understanding of those within its influence. Mr. Rose is called upon to point out a single sentence in the historical work, from which it can be fairly inferred that Mr. Fox was not sincerely attached to a limited monarchy, and though none can be found, we will not rank this among the unjustifiable artifices of a political partizan, to calumniate and injure the character of the principal opponent of his party, but lament that Mr. Rose should, under an influence he might not be sensible of himself, inadvertently insinuate that, which upon reflection he must be sorry he ever wrote. But this insinuation is repeated in the

Character of  
Monk.  
Fox, p. 9, 10.  
Rose, p. 14.



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Fox, p. 19.

bottom of the same page, aggravated by its being a direct perversion of the words of Mr. Fox to a sense, which he never intended they should bear. The words are, "It is impossible, in reviewing the whole of this transaction not to remark, that a general, who had gained his rank, reputation, and station in the service of a republic, and of what *he, as well as others called, however falsely, the cause of liberty,* made no scruple to lay the nation prostrate at the feet of a monarch; without a single provision in favour of that cause." Nothing can well be more guarded than the expression of Mr. Fox. He is arguing against the conduct of a professed republican, who had basely betrayed the cause he was engaged in, and contents himself with saying, that Monk called it, however falsely, the cause of liberty, but gives it no denomination himself. Yet Mr. Rose has laid hold of the expression, "in favour of the cause of liberty," and accompanied it with the words, "as Mr. Fox expresses it," as if this was his description of the cause, in which Monk had been engaged, instead of the description of it by Monk himself, and others of his time.

Rose, p. 14.

Cromwell and  
Monk com-  
pared.

In the next page the same insinuation occurs, but in a rather different form. Some displeasure is manifested at a comparison made between the characters of Oliver Cromwell and Monk, in which the prefer-

ence is given to that of the former, and then Mr. Rose adds, "It will require a great partiality for a republican form of government, to account for this predilection in favour of the destroyer of monarchy, and this prejudice against the restorer of it." Mr. Rose here exhibits the same childish partiality for Kings, which had been reprobated by Mr. Fox in the writings of Mr. Hume; according to him, the meanest of mankind, if a restorer of monarchy, is to be preferred to the possessor of the greatest mind and talents, if a destroyer of it. Mr. Fox thought more philosophically, he felt neither predilection for the one, nor prejudice against the other, but, according to the best of his judgment, gave an impartial character of both. If Monk was a base and worthless character, it was giving no opinion of the cause in which he was engaged, to say so; and if Cromwell was a man of a superior class, it was the duty of a historian not to withhold his proper meed of praise.

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Rose, p. 14.

We shall now proceed to examine, whether Mr. Fox was justified in the characters which he has given to these persons, who in their days acted such distinguished parts in the history of this country; but in doing this, it is necessary to premise that our remarks will be confined to such circumstances only, as have provoked the animadversions of Mr. Rose.



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Character of  
Cromwell.

Fox, p. 17.

ib. p. 18.

Against Mr. Fox's character of Cromwell is objected, that to him, "no vice is imputed but hypocrisy." It might be presumed from this statement, that Mr. Fox had described Cromwell as one of the most perfect of human beings, unstained by any other vice. On the contrary, after describing the virtuous conduct of Washington, Mr. Fox says, "but although in no country or time would he have degraded himself into a Pisistratus, or a Cæsar, or a Cromwell," &c.; here it is most clear, that in the scale of perfection, according to Mr. Fox's opinion, Cromwell did not stand so high as Washington, for if he did, it would have been no degradation to the latter to have assumed his character. The system of Cromwell is then said to be, "condemned equally by reason and by prejudice." His great talents, the splendour of his character and exploits, are then alluded to, and the glory of his reign contrasted with those of the four monarchs of the house of Stuart; and the concluding sentence which gives rise to Mr. Rose's objection is, "upon the whole the character of Cromwell must ever stand high in the list of those, who raised themselves to supreme power by the force of their genius; and among such, even in respect of moral virtue, it would be found to be one of the least exceptionable, if it had not been tainted with that most odious and degrading of all human vices, hypocrisy." To say, that his character is one of the

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*least exceptionable*, in point of moral virtue, among the persons above described is not, upon Mr. Fox's, or indeed any other principles, to pay him a very high compliment. The passage itself admits, that the character of those, who have raised themselves to supreme power by the force of their genius, are generally exceptionable in respect of moral virtue, and though Cromwell's might be one of the least exceptionable; if not tainted with hypocrisy, it does not follow, as Mr. Rose has incorrectly stated, that no other vice is imputed to him. The inordinate love of power certainly belonged to him, and Mr. Fox had before called him an usurper. It may be observed farther, that Dr. Welwood, who cannot be suspected of leaning toward republicanism, does not differ from Mr. Fox, for he says, Cromwell was, "for what was visible, free from immoralities, especially after he came to make a figure in the world."

Welw. Mem.  
p. 109.

The reader will probably not be displeased to turn from the consideration of general insinuations, and charges of a nature so loose and indefinite, as to render it necessary, in order to answer them, to enter into previous discussions, both tedious and uninteresting. We shall now, in prosecution of our general plan, advert to the charges made by Mr. Fox against Monk, and examine in what manner they have been attempted to be answered by Mr. Rose. They are

Mr. Fox's  
charges against  
Monk.



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three in number, and we are relieved from the difficulties just mentioned, for they are specific in their nature.

Monk restores  
the King with-  
out conditions.

Rose, p. 14.

In the first place, Mr. Fox reproaches Monk with having restored the monarch without a single provision in favour of the cause which he and others had called the cause of liberty. Mr. Rose at first endeavours to defend this omission by a series of hypothetical arguments, which, by their extreme weakness, afford a convincing proof of the truth of the observation he is combating. He argues first, that though this conduct might be regretted, yet it must be recollected, that there could hardly have been time to settle the boundaries of the regal power; and secondly, that Monk might have been of opinion, that the restoration of the monarchy would have implied all the limitations of its ancient constitution, but what these limitations were, or where to be sought for, Mr. Rose has not informed us. Certainly not in the history of the reigns of the two preceding princes of the house of Stuart, and surely Monk cannot be supposed, like Mr. Rose, who has lived the greatest part of his life among records, to have formed any opinion of the limitations which existed during the time of our Anglo-Saxon ancestors, thirdly, that Monk might have thought any delay would have been dangerous; fourthly, that he might have been less anxious in this respect, from his hav-

ing been witness of the abuse of liberty. And afterwards Mr. Rose gives, what he supposes to be, two additional reasons, but which are in fact included in the foregoing ones, viz. that Monk might have been so disgusted with the scenes he had been witness to, as to be willing to give his assistance to bring about any change likely to restore order; and that he might be alarmed lest the army should not have co-operated in his designs.

That Monk might have defended himself by these arguments, is certainly within the sphere of possibility, but that he would have had recourse to them is highly improbable. He had complete power over the army; it was governed by his creatures, and was subservient to his will. If he had proposed that the crown under certain restrictions, should be offered to the King, there was no existing power to oppose it.

But Mr. Rose says, that it should not be imputed exclusively to him, that such restrictions were not stipulated for; and in order to prove this position, enters into a most extraordinary argument, for he contends upon the principles of a true republican, if we do not misunderstand him, that independent of Monk, there existed in the Parliament a legal constitutional power, by virtue of which Charles was invited to the throne without any restrictions. To this there are

Rose, p. 17.



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two decisive answers, first, that the remnant of the long Parliament itself was allowed to assemble only upon conditions, and for purposes prescribed by Monk; and next, that the new Parliament was illegally summoned afterwards.

Ludl. Mem. p.  
357.

The excluded members were restored to their seats in the Rump Parliament, which met after the abdication of Richard Cromwell, but upon condition, as Ludlow informs us, and as their conduct afterwards justifies us in believing, that Monk should be voted general of all the forces by land and sea, a constant maintenance settled on the army, and a new Parliament ordered to be chosen, after which they should put an end to themselves in a day or two at the most. Accordingly, the Rump Parliament, as Ludlow says, after passing a vote, to delude the people, that no one who had been in arms against the Parliament, should be eligible to the new one, dissolved itself. In consequence of this arrangement, writs were issued by the keepers of the liberties of England, and to use

Ib. p. 363.

Mr. Rose's democratic principles.

Mr. Rose's words, "a free convention met, in which the Lords assembled also. It was therefore, by an assembly, elected by the unbiassed voice of the people, in pursuance of an act of the Commonwealth Parliament, that the King was called to his throne without conditions." Mr. Rose can hardly have been aware of the concessions he is here making; but the

conduct of Monk was to be defended, or at least palliated at all events, and the principles of that defence, might never be inquired into.

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If the acts of a Parliament, chosen under the sanction of an army, and existing only at its pleasure, can form a justification for the conduct of the general of that army, then it may be argued with greater appearance of reason, that the acts of a Parliament elected, certainly as freely, under Cromwell, and possessing more of independence, justified the usurpations of Cromwell. But in another point of view, Mr. Fox has not supported any principles in their nature so democratic, or as Mr. Rose would call them, republican, as he is here obliged to resort to. For he defends the Restoration of the King without any restrictions, not upon any ancient acknowledged principles of government, but the invitation of a free convention, elected by the unbiassed voice of the people. It is hardly worth noticing, that in order to prop this tottering argument, it is assumed that the convention was properly assembled, freely elected, and acted without restraint; yet in form, it was summoned as we have seen, by the keepers of the liberties of England, and in fact, a numerous description of persons was excluded, and it depended for its existence on the pleasure of Monk and his army.

Mr. Rose apologizes for the restoring of the King. Rose, p. 13.



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Difference of  
circumstances  
at the restora-  
tion and revo-  
lution.

without limitations from a supposed difference between the circumstances attending the Restoration and the Revolution; and in the latter period he tells us, that "there was full leisure for deliberation." But upon a minute examination of dates, it will be found that there was not, taking the calculation in the most favourable manner for Mr. Rose, any material difference between the times afforded for deliberation at these periods. At the Revolution, James fled on the 11th day of December, and William and Mary accepted the crown on the 13th of February following, so that thirty-three days only could be employed in settling the constitution, and consulting the wishes of those, to whom the regal power was to be committed. At the Restoration, a much longer time elapsed, from the period when Monk is supposed, by some, to have first entertained sentiments favourable to monarchy, and the King was in fact restored; but at all events twenty-eight days elapsed between the open declaration of his sentiments made on the 1st May, 1660,\* and the King's return to the seat of government.

\* On the 1st May, Monk directed Mr. Annesley, president of the council, to inform the House of Commons, that Sir John Granville, a servant of the King's, had been sent over by his Majesty, and was then at the door with a letter for the House. But from Thurloe's State Papers, as will be shewn presently, it appears that Monk's disposition was known to Lord Clarendon to be friendly to the King, so early as about the middle of March, and his design to restore monarchy suspected about the same time by Harry Martin, to whose quick-

But another assertion requires a more minute consideration. "It is not improbable," says the observer, "that if any man, at the Restoration, had even suggested a new check on the regal power, he would have been considered as an enemy to royalty, and would have been treated accordingly." This may be admitted to be the case, after Monk had decided that the King should be recalled, without any restrictions. But if he had himself proposed any, or encouraged others to have done so, there were many persons, of note, who would most gladly have risked the consequences; but despairing of success, without Monk's approbation and assistance, they abandoned the design. Ludlow, whose authority as an independent in religion, and a republican in politics,

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Monk prevents  
limitations of  
the crown.

Rose, p. 18.

ness and penetration the republican party were frequently under considerable obligations. The following anecdote is preserved in the British Museum:—"When Harry Martin was leaving England, to live in Holland, March 1659, he went to take his leave of Monk, and asked him, whether he would set up a kingly, or a commonwealth government;—a commonwealth, said Monk. This was after the militia was settling. Said Martin I'll tell you a story; I met a man with a saw, a pick-axe, and a hatchet, and asked him what he meant to do with those tools;—he said, I am going to take measure of a gentleman to make him a suit of clothes. Apply it yourself; it is as likely you will set up a commonwealth with your ways, as he to make a suit with those tools. Sir R. W." Probably these initials stand for Sir R. Willis, who might have related the story.—Symond's Anecdotes in Dr. Birch's Papers in the British Museum. MSS. No. 4164.



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Ludl. Mem. p.  
363.

Rose, p. 16.  
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Clar. St. Pap.  
iii. p. 703.

Mr. Rose might not singly give credit to, expressly asserts, that when the secluded members were restored it was debated whether they should agree upon a settlement, or whether it should be left for a Parliament to do; and some were for calling in the Lords, and entering into a treaty with the King for a future establishment, which should be grounded "chiefly upon the concessions made by the last King "in the Isle of Wight."\* He then states that Monk, being earnestly desirous to bring in the King without any conditions, in hopes "to procure a recompence equal to the greatness of his treachery, prevented the success of that proposition, which part he "acted so openly, that divers of the secluded and other "members" resolved to imitate him. Welwood also in his memoirs, as cited by Mr. Rose, says, that "some "were for bringing him" (i. e. the King) "back "upon terms." The republican Ludlow's authority in this instance is corroborated by a letter to the King himself, dated 19th March, 1660; in which is said, "a "great part of this council," (i. e. the council of state) "by name Sir Gilbert Gerard and Mr. Crewe, "and that gang are really upon the bringing in the "King upon the articles of the Isle of Wight;"

\* Those concessions were drawn up in the form of a bill for a new coronation oath, which see, Ludl. Mem. p. 531. And this bill, perhaps, was the object of Sir M. Hale's motion, mentioned hereafter at p. 40. of this work.

which seems to imply that the writer was surprised at there being an inclination in these persons to bring in the King at all. Four days afterwards, (23rd May, 1660) Mr. Samborne, in a letter to Lord Chancellor Hyde, informs, that "the chief of the Presbyterian party of  
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 "the counsel of state, and others met in a junto,"  
Clar. St. Pap. iii. p. 705.  
 (of which the Lords Bedford and Manchester, and Mr. Pierpont are afterwards said to be members, and Popham, Waller and Sir John suspected) "where many  
 "things were debated, and at last it was resolved  
 "upon, that they should immediately send propositions to the King, which they had drawn up, and  
 "were more insolent than ever they had demanded  
 "of the late King:\*\*\*and I have it from good hands  
 "that Monk abhors the Presbyterian impudence in  
 "these proposals to the King." Some who were most violent in this design are made to say, "they cannot  
 "be secure if they permit so much as a kitchen-boy  
 "to be about the King of his old party; and that  
 "he must be so fettered, as that he should not write  
 "a letter but they must know the contents of it."

Lord Clarendon's correspondent has assured us, in the last preceding letter, that Monk was acquainted with, and did not approve of the proceedings of the presbyterian junto; and, from another letter in the same collection, it may be fairly inferred, that Ludlow's charge against Monk was well founded; at least, that the emissaries of the King were zealously employed in endeavouring to



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Clar. St. Pap. i. i.  
p. 739.

Burnet, i. p. 88.

prevail on Monk to restore him without conditions; for 4th May, 1660, Lord Mordaunt writes, "Last week I sent you word it then clearly lay in the general's power to restore the King without terms; but last week is not this week, neither did he strike whilst the iron was hot. My opinion is, his interest lessens again," &c. Afterwards when the convention was assembled, one of the most upright and honourable of its members, Mr. (afterwards, Sir Matthew) Hale, moved for a committee to look into the propositions and concessions made during the life of the late King, particularly at the treaty of the Isle of Wight, and draw up such propositions as they should think fit to be sent over to the King; this motion being seconded, Monk got up, and answered it by urging the extreme danger of any delay, and that they might as well prepare them and offer them when the King should come over; and then moved that commissioners should be sent immediately to bring over the King. This was echoed with such a shout over the House, that the motion was no more insisted upon.

These authorities prove that Monk did not argue, as Mr. Rose's fertile imagination fancied he might have done. To him, as Mr. Fox justly observes, "did the nation look up, ready to receive from his orders the form of government he should choose to prescribe;" but he and the King's emissaries were acting

Fox, p. 13.

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in concert to bring in the King, without any limitation to the regal power: he prevented a party in the council of state, who would have run the risk of being considered and treated as enemies to royalty, from taking the steps necessary to impose some restrictions; and in the convention, he defeated Mr. Matthew Hale's salutary design, by proposing a resolution, that the King should be sent for without any. Thus, be it to his praise or not, to him, and to him alone, was the King indebted, that he mounted the throne with unlimited authority. For this service Monk was afterwards liberally rewarded; but so shortsighted is the policy of men, that this circumstance of triumph in 1660, after proving a perpetual source of vexation to the King occasioned the ruin of the House of Stuart only 28 years afterwards. A wiser conduct was pursued at the Revolution; the Prince of Orange accepted the crown under such limitations as were well calculated to give security to the monarch, and liberty and happiness to his people.

Mr. Rose is always on the alert to detect republican principles in Mr. Fox's work, and always desirous to communicate to others the impression he has himself taken up. Thus, after he has in one place mentioned the restoration, he adds, "according to Mr. Fox, the "worst sort of revolution." Mr. Fox having described what might have been the speculations of a

A restoration usually the worst of revolutions.

Rose p. 19.



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sagacious observer of the circumstances which preceded the year 1640, comparing them with the events which happened afterwards, asks, as proper subjects for these conjectures, how long the army may be before it would range itself under a single master? and what form of government he would establish? He then goes on to say, "or will he fail, and shall we have a restoration, usually the most dangerous and worst of all revolutions?" This observation is of a general nature, alluding to no particular event, but to all restorations, in all countries, and in all times. Mr. Fox might lay down as a general principle, that any restoration must necessarily be dangerous to the liberties of the people, because the ancient system would resume its functions armed with more despotic power, and abuses of every kind would be triumphantly re-established. A revolution is a desperate remedy, and to be resorted to only in cases of the most urgent necessity; for when an ancient system is broken up and destroyed, no human foresight can fix the limits at which the rage for alteration shall stop, the period at which the horrors of civil war shall cease, or the number of victims which shall be sacrificed. In most cases, a restoration may be justly styled the worst of revolutions, because, notwithstanding the risks which have been run, and the privations which have been endured, it has usually happened, that it has afforded no present alleviation to the misery which had originally pro-

voked the preceding revolution, and has destroyed all prospect of grievances being redressed, and the situation of the people being meliorated.

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Mr. Fox's opinions concerning a restoration, are neither new nor peculiar. It would be easy to accumulate instances and authorities, let one suffice:—Mr Gibbon observes, "The ancient proverb, That blood-thirsty is the man who returns from banishment to power, had been applied with too much truth to Marius and Tiberius, and was now verified for the third time in the life of Andronicus."

Gibbon's Rom.  
Emp. c. 48.

Mr. Rose unwarrantably confines this general observation to the Restoration of Charles the Second, and it may therefore be worth while to examine shortly, whether even that great event might not be cited as an example of the truth of Mr. Fox's general observation. The Restoration was in one point of view a most fortunate incident for this country, for it brought back the form of government, to which the people had been accustomed, and which a majority of them preferred; and it laid the foundation of the happy political system, under which we now live. But we must not forget that it was also accompanied with the re-establishment of most of the abuses of the former monarchy, and that, according to Mr. Rose, so strong was the cry in favour of kingly go-



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vernment, it would not have been safe for the restorer of it to have proposed the most salutary restrictions. Even Monk himself would have been considered as an enemy to royalty, and treated as such. A wild and enthusiastic spirit in favour of the ancient form of government, has generally preceded, and occasioned restorations; it is not peculiar to that just mentioned, but belongs indiscriminately to all, and may be one of the reasons, operating upon Mr. Fox's mind, and inducing him to make the observation in question. The existence of such a spirit, at the moment of a restoration, must be highly dangerous to the liberty of the people, and prevent them from deriving the benefit, they might have expected from resistance. In this respect, therefore, it may be doubtful in what class of revolutions the Restoration of Charles the Second ought to be placed, for owing to his being seated on the throne, without limitation, almost the whole of his reign was one continued tumultuous struggle between him and his subjects, and, if the fear of Popery had not united and invigorated the friends of rational liberty, it might have been recorded in history among the worst of revolutions, and as one which had blasted the rising prosperity of a great people. By constant adherence to a system of unexampled duplicity and meanness, Charles contrived to retain a precarious throne, but, within less than four years after his death, the errors of the first revolution were so severely felt,

that a second became necessary to reform them, and the liberty of England was established on the expulsion of his brother, and his family, and accompanied with a change in the right of succession to the throne.

Mr. Rose is quite indignant at the character given of Monk by Mr. Fox, though he admits, that “ too Rose, p. 19. much praise has been bestowed on Monk by those “ who approved of the measure, and too much censure by those who disapproved of it.” There is an insinuation conveyed in this last sentence, which must not be permitted to pass unnoticed. By connecting those, who praise and censure Monk with those, who approve or disapprove of the measure, on Mr. Fox is cast the opprobrium of disapproving of the Restoration, because he censures Monk. But is it not possible that a historian may censure a distinguished political character, and yet not be an enemy to his measures? And does not Mr. Rose give up all pretensions to candour, when he thus acknowledges that he praises Monk, not on account of any merits of his own, but of the cause in which he was engaged? In his eyes the character of a restorer of monarchy, however base and immoral, must be entitled to admiration; and even that of Monk appears to him, only not so perfect as to justify unqualified praise being bestowed on his memory.



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The people desirous of the Restoration.  
Rose, p. 20.

Mr. Rose, however, detracts from the merit of Monk, when he says, "It is true that he gave great furtherance to it," (i. e. the restoration of the King) "but in doing so, he only fell in with the eager and anxious wishes of almost all descriptions of men in the country; for we can now hardly trace a movement to attempt to prevent it, except by individuals, who were under apprehensions for their personal safety." The reasoning here is not logical, for though no movement at all can be traced, it would not be a proof of the existence of the eager and anxious wishes in almost all descriptions of men; because a man does not attempt to prevent a thing, it does not follow that he eagerly wishes for it; especially when his personal safety may be endangered by the attempt. And in the present case, the fact, if it existed, is naturally accounted for, from Monk, by great hypocrisy and treachery, having acquired the most despotic power, and deprived the republicans of all prospect of success, from any opposition they could possibly have made.

Effect of seizure of church and crown lands during the usurpation.

Rose, p. 20.

The remark, that the seizure of the crown lands, and the sale of the bishops' lands, had hardly any effect on checking the general wish for the restoration, although it was believed there were above 400,000 families in the kingdom engaged to the Parliament by those purchases, (i. e. of the bishops' lands, for no other sales

had been mentioned before) deserves to be noticed, only as it affords a striking instance of Mr. Rose's credulity and incorrectness. The only authority he cites for the number of families influenced by the purchase of bishops' lands, is an anonymous pamphlet, preserved in the collection of Lord Somers's Tracts, of which the title itself might lead to suspicion in any dispassionate mind of the authenticity of the statements contained in it. It is "a scandalous, libellous, and seditious pamphlet, entitled, *The Valley of Baca, or the Army's Interest Pleaded, the Purchasers Seconded, the Danger of the Nation Demonstrated in Thirty-four Queries, Answered, and the Present State of Affairs Briefly Vindicated.*" This, however, is the sole authority, on which an author, pluming himself on his official accuracy, ventures to make an assertion, which, if he had reflected for a single moment, he would at least have hesitated to give credit to. Four hundred thousand families are mentioned in that scandalous, libellous, and seditious pamphlet, to which the tract in Lord Somers's collection was the answer; and they would contain, probably, at least 1,700,000 people; at that time composing, we may calculate, one-fourth part of the whole population of England. Unfortunately, however, for Mr. Rose's argument, the pamphlet affords no authority for his assertion, for he is speaking of the purchasing of bishops' lands, the pamphlet of the purchasers of the crown lands. But that we may



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not be supposed to cavil about words, let us admit Mr. Rose has inadvertently made a mistake, and that his intention was to include the purchasers of both crown and bishops' lands; then, the book relating to the crown lands only, there must have been more than 400,000 persons influenced by the purchases of both, and Willis's Survey of the Cathedrals will enable my readers to make a loose calculation of the great number which must be added to a number already too large to be readily acknowledged to be correct. This would only make the argument more desperate. And it is clear, that Mr. Rose was not sufficiently acquainted with the facts, which he meant to press into the service, for at the conclusion of the paragraph, he mentions that great numbers of officers and soldiers had assignments for their arrears on the estates of persons forfeited for their adherence to the King; and therefore to the 400,000 families engaged by purchases of crown lands, and to those engaged by purchases of the bishops' lands, we must also add this third class of families, described by Mr. Rose as very numerous. According to this absurd calculation, there could be very few families left to support the King's cause, nor could there be any considerable remnant of those, who had suffered for it. If Mr. Rose had only taken common pains to have ascertained the fact from authentic documents, instead of relying upon the loose statement of an anonymous party pamphlet, he would have found that persons, best

informed upon the subject, did not consider the influence of the purchasers of crown or church lands, or the holders of the lands of delinquents, as forming so formidable a body. In a letter dated 20th February, 1659-60, Lord Chancellor Hyde says, "I am  
 "not so much frightened with the fear of those per-  
 "sons, who being possessed of the church, crown,  
 "and delinquent's lands, will be thereby withheld from  
 "returning to their duty, except they might be as-  
 "sured to retain the same. First, I do not think the  
 "number so very considerable of all those who are  
 "entangled in that guilt, that their interest can conti-  
 "nue or support the war, when the nation shall dis-  
 "cern that there is nothing else keeps off the peace.  
 "Secondly, they who have the greatest share in  
 "those spoils, are persons, otherwise too irrecon-  
 "cileable, either by their guilt as King's murder-  
 "ers, or their villainous resolutions, as Sir Arthur  
 "Haslerigg and others, that no overtures of that  
 "kind would work upon them, but would be turned  
 "into reproach; and *as the number of those is not*  
 "*great*, so the greatness of their possessions makes  
 "them more enemies than friends, setting all other  
 "guilt aside." Nor was the value of the land, by  
 which so many families were engaged to the parlia-  
 ment, so great as might be imagined, or Mr. Rose's  
 assertion might erroneously give rise to suspect. In  
 another letter, 6th April, 1660, from Mr. Barwick to

SECTION  
I.Clar. St. Pap. iii.  
p. 687.

Ib. p. 723.



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Mar. St. Pap. iii.  
p. 739, 747.

the Lord Chancellor; he says, "by computation, less  
"than a year's tax would now redeem all the land  
"that hath been sold of all sorts, which, upon the  
"refreshment the kingdom will be sensible of at first  
"upon his majesty's return, may possibly be granted."  
The arranging of the claims of those purchasers and  
holders was a matter of great difficulty; and at last  
a plan, consented to by Monk, was settled, though  
never carried into effect.

Ludl. Mem. p.  
128.

The instances of incorrect statement in Mr. Rose's  
work are almost as numerous as the pages he has writ-  
ten. Another occurs in the paragraph we have just ex-  
amined: he cites Ludlow as saying, that "authority  
"was given to sell the estates of the crown and the  
"church" upon certain conditions. But, in the pas-  
sage alluded to, Ludlow informs us, that authority  
was given to sell the estates not of the crown and  
church, but those which had formerly belonged to  
the deans and chapters. And then further adds, that  
the fee farm rents of the crown were also sold, but  
the crown lands were assigned to pay the arrears of  
the soldiers, who were in arms in the year 1647. The  
want of accuracy in this particular instance may not ma-  
terially affect the vindication of Mr. Fox, but it shews  
what little reliance can be had upon the statements  
of Mr. Rose, and how little he has studied to be cor-  
rect.

Mr. Fox says of Monk, that he "acquiesced in the  
 "insults so meanly put upon the illustrious corpse  
 "of Blake, under whose auspices and command  
 "he had performed the most creditable services of  
 "his life." This story, Mr. Rose says, rests on  
 the authority of Neale's History of the Puritans, where  
 we read that on the 30th of January, 1660, the bodies  
 of Cromwell, Bradshaw, and Ireton were drawn upon  
 hurdles to Tyburn and there hung up; and that towards  
 the latter end of this year his Majesty's warrant to the  
 dean and chapter was obtained, to take up the bodies  
 of such persons, who had been unwarrantably buried in  
 the chapel of Henry the Seventh, and in other chapels  
 and places within the collegiate church of Westminster  
 since 1641, and to inter them in the church-yard  
 adjacent; and on the 12th and 14th of September  
 about twenty bodies were taken up, and among them, he  
 mentions, that of Blake; and these, with some others,  
 of lesser note, were all thrown together into one pit in  
 St. Margaret's "church-yard, near the back-door of  
 "one of the prebendaries." Mr. Rose boldly asserts,  
 that this account has been refuted by Grey, and also  
 by clear evidence adduced by Bishop Kennett in his  
 Historical Register. Not troubling the reader with the  
 refutation by Grey, we will examine the nature of  
 this clear evidence adduced by Kennett. It is fortunate  
 that both parties are agreed in taking Kennett  
 for their umpire; for they both rely upon the same

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Insults to the  
 corpse of Blake.  
 Fox p. 20.

Rose, p. 21.

Neale ii. p. 587.

Ib. p. 619.



SECTION  
I.Hist. Reg. p.  
536.

page of his book. Mr. Rose admits, in the text, without giving any dates, that there was such an order as Neale alludes to, and that, in consequence, the bodies of Cromwell, Ireton, &c. were dug up and ignominiously treated; but Blake's, which he does not mention to have been dug up, "was," he says, "with great decency, re-interred in St. Margaret's church-yard." But, as it could not be re-interred, unless it had been taken up, we may conclude it was dug up in the same irreverent manner as the bodies of those, who were so ignominiously treated afterwards. And if it was dug up at all, in pursuance of the before-mentioned order, Mr. Fox's observation is strictly true, that this illustrious corpse was meanly insulted. And Mr. Rose does not deny that, if that were the case, it was done with the acquiescence of Monk. But this passage of Mr. Rose's work is deserving of more minute investigation, and is another notable instance of the boasted accuracy which occasioned him to undertake the correcting of errors in Mr. Fox's work. He describes the bodies of Cromwell, Ireton, Blake and others, to have been taken up at the same time, by the order to remove the dead bodies of those who had acted against the King, and been buried in Westminster Abbey; but the fact is, that in pursuance of a joint resolution of the House of Lords and Commons of the 8th of December, 1660, an order of both houses was made, for the carcasses of Cromwell,

Com. Journ. vii.  
p. 202.

Ireton, Bradshaw, and Pride, whether buried in Westminster Abbey, or elsewhere, to "be with all expedition taken up and drawn upon a hurdle to Tyburn, and there hanged in their coffins for some time, and after that buried under the said gallows."\*

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Those of Ireton and Cromwell were taken up on the 26th of January, Bradshaw's on the 29th, and all three were hanged upon the gallows at Tyburn on the 30th, where they continued till the next day at sun-set, when they were cut down, the trunks buried in a hole at the foot of the gallows, and their heads placed on Westminster Hall. More than six months afterwards, viz. 10th of September, Kennet states the warrant of the King (which Neale alludes to) to have issued; and that on the 12th, and 14th of that month, the bodies of several persons mentioned were taken up, that of Blake, being one dug up on the

Dart. ii. p. 144.

Hist. Reg. p. 536.

\* This order originated in the House of Commons on the 4th, December; and the Serjeant at Arms was ordered to take care, that "it was put in effectual execution." Mr. Titus was also ordered to carry it up to the Lords for their concurrence. But, probably, it occurred to some of the members that the performance of this duty did not belong to their office; and on the 6th of December he was directed to take care it should be done by the common executioner, and others, to whom it should respectively appertain; and the sheriff of Middlesex was to give his assistance. In this form it was sent to the Lords on the 7th, December, and the Lords returned it on the 8th, with the further addition, that the dean of Westminster should give directions to his officers to assist.

Com. Journ. viii.  
p. 197.

Ib. p. 200.

Ib. p. 202.



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12th. But the blunders of Mr. Rose do not end here; for he has favoured his readers, in a note, with an extract from a newspaper in his possession, published on the 26th January, 1661, which correctly announces that, in pursuance of an order of Parliament, the carcasses of Cromwell and Ireton were digged up out of their graves (which, with those of Bradshaw and Pride) were to be hanged at Tyburn, and buried under the gallows. The next number of the paper stated the particulars, "but," adds Mr. Rose, "not a syllable concerning the corpse of Blake." It would have been miraculous if there had been; for the corpse of Blake was then resting peaceably in the vault in which the gratitude of his country had deposited it. And there it remained for many months afterwards, until disturbed, in pursuance of the royal mandate.

But Mr. Rose's accuracy has not even yet been fully appreciated, for his assertion, that the corpse was re-interred in St. Margaret's church-yard "with great decency," is not supported by history. Neale alleges that it, "along with the others, were thrown into one pit." Upon appealing to Kennett, cited as before observed, by both parties, nothing satisfactory is found, nor is Dart in his History of the Cathedral Church of Westminster, as referred to by Kennett, more explicit. Both of these authors, probably, wishing to conceal or palliate the disgraceful treatment of the corpse

Dart, ii. p. 145.

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of a hero, to whom, perhaps, more than any other (with the exception of the immortal Nelson) this country is indebted for her present maritime glory and strength, have expressed themselves in cautious and ambiguous terms. But Anthony Wood, in his *Fasti Oxonienses*, enumerating Blake among the batchelors, mentions the order of the King before mentioned, and then adds, "His body, I say, was then (September, 12th) "taken up, and, with others, *buried in a pit in St. Margaret's church-yard* adjoining, near to the back "door of one of the prebendaries of Westminster, in "which place it now remaineth, enjoying no other "monument but what it reared by its valour, which "time itself can hardly efface." The story then, does not rest on the authority of Neale only, as Mr. Rose states, but is supported by 'an author whose political sentiments cannot be suspected of being too favourable to liberty of any description, and from whom probably Neale had borrowed it. We will now leave to Mr. Rose the task of reconciling the refutation of Grey, and the clear evidence of Kennett, with the positive assertion of Wood.

Wood's *Fasti*, i.  
p. 205.

The next passage in Mr. Fox's work objected to, is that which charges Monk at the trial of Argyle with having "produced letters of friendship and confidence to take "away the life of a nobleman, the zeal and cordiality "of whose co-operation with him, proved by such docu-

Monk's base  
conduct to the  
Earl of Argyle.  
Fox, p. 20.



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Rose, p. 22.

“ ments, was the chief ground of his execution.” The propriety of Mr. Fox’s remarks upon this conduct are not disputed. Mr. Rose himself calls it, “ an infamous act,” provided the fact were true; and takes upon himself the proof of its falsehood with a confidence, which nothing, he has produced in argument, can warrant. He stumbles at the threshold, for in terms, which convey an imputation upon Mr. Fox for not having made proper inquiries before he wrote, he himself makes an assertion, which is not correct. He says, that, “ On considering the evidence accessible to every one when Mr. Fox wrote respecting the share Monk is represented to have had in the death of the Marquis of Argyle, it will be found that the charge against him for so infamous an act rested, as has been observed, on the assertion of Bishop Burnet, which appears to have been satisfactorily refuted by Dr. Campbell,” and he refers to the Lives of the Admirals, and the Biographia Britannica. If Mr. Rose had consulted evidence accessible to every one, nay, if he had opened the very books he has mentioned in his note upon this page, he must have discovered, that though when Dr. Campbell wrote, this charge against Monk might rest on the assertion of Bishop Burnet, yet when Mr. Fox wrote, it did not. In the note before alluded to, we are told, that “ Mr. Laing, in his History of Scotland, also relies on the bishop’s authority, confirmed, *as he says*, by Baillie, vol. ii. p. 431.

"and by Cunningham in his History of Britain, vol. I. p. 13." Here we have a notable instance of official accuracy, for Mr. Rose does not take the trouble to turn either to Baillie or Cunningham, to see whether they confirm the bishop or not, though he seems to dispute the fact, leaving it on the assertion of Mr. Laing. It is clear that he did not examine Baillie, for he has copied the misprint of the page from Mr. Laing's work, and cites from page 431, instead of 451. Mr. Rose is not an indolent man, his industry is apparent in every section of his book; it may not be always well directed, but this is an instance, of which very few occur, of his having made no exertion at all to verify a most important fact\*, upon which all his future reasoning

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\* That the reader may form a proper judgment of these references which if Mr. Rose had condescended to have examined, might, probably, have put this question to rest, the passages are copied at length here. Baillie says, "When his libelled crimes appeared not unpardonable, and his son Lord Neil went up to see his brother Lorne at London, and spake somewhat liberally of his father's satisfactory answers, *Monk was moved to send down four or five of his Letters to himself, and others proving his full compliance with them, that the King should not reprieve him. The chancellor and Rothes went to court to shew the hazard of his escape. The man was very wise, and questionless the greatest subject the King had, some time much known, and beloved in all the three kingdoms. It was not thought safe he should live.*" Baillie mentions many circumstances concerning the proceedings against, and execution of Argyle, which show that he was minutely informed of every part of the trans-



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upon the subject was to depend. The reader is left to account for this conduct as he pleases, but it must not be forgotten; that his benumbed faculties are restored, when the attack is to be revived upon Bishop Burnet; he is then laborious in his inquiries, his mind resumes its usual activity, and neither dust nor cobwebs prove obstacles to his pursuit.

Mr. Rose's  
arguments  
answered.

We shall not weary our readers with discussing all the arguments, adduced by Dr. Campbell upon the subject. In Mr. Laing he has met with not a contemptible opponent, and few will be of opinion that the latter had the worst of the argument. Mr.

action: and that he was interested in it, and likely to observe what passed, appears from the following passage. "Argyle long to me  
" was the best and most excellent man our state of a long time had  
" enjoyed, but *his compliance with the English*, and remonstrants  
" took my heart off him these eight years: yet I mourned for his death  
" and still pray to God for his family. His two sons are good  
" youths, and *ever were loyal*." Baillie's Letters II. p. 451.

Cunningham lived after the execution of Argyle, but he was intimately connected with his son and his family; was trusted by the Whigs of Scotland, and in a situation to obtain the best information upon the subject. "At the restoration many letters were addressed  
" to the King," of which Cunningham says, "I myself have three-  
" score," afterwards he adds, "There is one from the Marquis of Ar-  
" gyle, in which after wishing his Majesty all health and prosperity  
" he gravely excuses his absence on account of his bad state of  
" health, and the length of the journey. 'As to other matters' says

Rose has reprinted Dr. Campbell's attack upon Burnet in his Appendix, but we shall confine ourselves chiefly to such of his arguments, as are retailed in the observations. It was not merely an attack upon the bishop, which was in the contemplation of Mr. Rose, it was aimed also at Mr. Fox, who, without taking proper pains to get information, is charged with having retailed the scandal. A Whig bishop, and a Whig statesman were to be levelled to the ground at one blow; and though Mr. Rose's intention to be correct and candid, cannot be disputed, the political atmosphere thickened round him, his best efforts were traversed and con-

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“ he, ‘ I refer to my son Lorne.’ The King, on reading this letter, spoke to the Lord Lorne in a very kind manner; upon which, Argyle, conceiving hopes of safety, set out for London, and came to court to cast himself upon the King’s clemency. But, *through the interference of Monk*, with whom he had held a long and intimate friendship in the time of Oliver, he was presently committed to custody, and sent back for his trial to Scotland. He endeavoured to make his defence, but, *chiefly by the discoveries of Monk*, was condemned of high treason and lost his head.” Cunn. Hist. I. p. 13. It seems, by this extract, that the letter from Argyle to the King was in Cunningham’s possession, among the threescore letters he mentions. And, it may be observed, that both Baillie’s and Cunningham’s testimony may now be added to the proofs adduced in the text, to shew the incorrectness of Dr. Campbell’s assertion that Monk always considered Argyle as a secret friend of the King; for in the time of Oliver he “ held a long and intimate friendship with him;” and it was on account of his compliance with the English that Baillie estranged himself from him.



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founded: and this may be added to the numerous instances of the weakness of human resolutions.

Rosc, p. 23.

Ib. p. 26.

He begins by observing that Woodrow is entirely silent upon the point. Then that a diligent search had been made among the records of the parliament, council, and justiciary in Scotland, but nothing was to be found; and then in a collection of all the publications during the civil war, and some years after the restoration, supposed by Mr. Rose to be complete; and lastly, in the Newspapers of the times, published at Edinburgh\*, but in none of them could be found any trace of the fact in question. With respect to the Newspapers, if any such exist, it is impossible to judge whether they are deserving of any credit in proving this negative without some further explanation. Perhaps upon examination they might turn out to be only

\* What these Newspapers were, we should have been under obligations to Mr. Rose if he had condescended to describe with some degree of particularity; for we collect, from Chalmer's Life of Raddiman, that no Newspaper was published at Edinburgh till 1654, when the English Mercurius Politicus was first reprinted there, and continued to be published afterwards till the 11th of April 1660, when it assumed the name of the Mercurius Politicus, and this was probably the only paper printed at Edinburgh at the time of the trial of Argyle. On the 31st December, 1660, was published at Edinburgh, the Mercurius Caledonius which was the first Newspaper "of Scottish manufacture," but the publication extended only to ten numbers.

English Newspapers reprinted at Edinburgh ; but in all events there probably was not more than one Newspaper published there at that time, and in that case we shall be justified in presuming that it was under the controul of the court, and the adherents of Monk.

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Besides these laborious investigations, we are informed that a collection of pamphlets, printed in the reign of Charles I. and Charles II. now in the British Museum, was inspected, and Thurloe's State Papers examined, with what success will appear presently, and in addition to this long list of references the reader is presented with an extract from Skinner's Life of Monk, which shall also be particularly attended to.

Rose, p. 24.

Ib. p. 25.

A pamphlet was discovered, as Mr. Rose informs us, in the collection in the British Museum, intitled " The Last Proceedings" against the Marquis of Argyle, containing, *inter alia*, a Speech, in which " he expressly " denies having any epistolary intercourse with Cromwell, or any of that sectarious army." In the speech of Argyle, given in the State Trials, supposed to be made on the scaffold (27th May, 1661), after declaring his loyalty to the King while he was in Scotland, and denying having had any share in the death of Charles I. he says, " I shall not speak much of these things, for " which I am condemned, lest I seem to condemn " others. It is well known it is only for compliance,

St. Tr. ii. p. 434.



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“ which was the epidemical fault of the nation. I wish the Lord to pardon them. I say no more.”

Here he seems to admit that he had been guilty of compliance, which was one part of the crime imputed to him, and excuses himself for it to a certain degree, but there is nothing in his speech bearing any resemblance to the passage cited from the pamphlet. A suspicion may arise that the words are not exactly quoted, but if they are, there will be no difficulty in proving that the statement made cannot be so correct, that either the author of the pamphlet, or Mr. Rose must have fallen into a mistake. For in the sixth charge made against Argyle in parliament, it was alleged that he kept “correspondence with the usurper Richard Cromwell and Charles Fleetwood in the year 1658 and 1659, by missive letters and other ways.” And in the 19th clause of his answer to the particular articles of the libel, he says, “I did never correspond with Richard Cromwell, nor Fleetwood, except in order to my own affairs.” The charge being confined to the corresponding with Richard Cromwell, and the answer going also to that point, it is not likely he should deny his having had any epistolary correspondence with Oliver, which was not a charge made against him. Besides, if the words of the pamphlet are to be taken as a positive denial of his ever having written to Oliver, they are falsified by a letter from Argyle, preserved in Thurloe’s Collection of State Papers,

St.Tr. ii. p.420.

ib. p. 431.

dated August 24, 1654, addressed to the protector Oliver himself, desiring his servant Colin Campbel may communicate some particulars concerning him. Mr. Rose having carefully examined this voluminous collection, it may occasion some surprise that this letter should have escaped his notice; but there are other discoveries, which he might have made there, if that examination had been conducted with common attention, and which would probably have occasioned considerable alteration in his sentiments, if he had given them a full and patient consideration.

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Thurl. ii. p. 517.

The object of this very careful examination of Thurloe's Collection was to discover, "whether  
" there had been any communication between the  
" Marquis of Argyle and Monk, but nothing of the  
" sort could be found; on the contrary there is, be-  
" sides the passages referred to in the Biographia,  
" the heads of a discourse between the exiled King,  
" and Don John of Austria on the state of Scot-  
" land in the end of 1656, which afford strong pre-  
" sumptive evidence, that no confidential letters, e-  
" specially of such high importance to the writer,  
" as those alluded to, were written by the Marquis."  
Before we make any remarks on the passages cited by Dr. Campbell, it may be proper to examine the nature of the presumptive evidence now produced by Mr. Rose. In the conversation between Don John of

Rose, p. 24.

Thurl. v. p. 604.



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I.Rose, App. p.  
xxxii.

Austria and the King, Don John was satisfied, in general, with the accounts received from Scotland, and would write to Spain; but expressed some doubts on which he requested explanation; one of them was, that Argyle and his son were then in special friendship with the English. The King said, as for his son "he was as assured of him as his brother; and for "the father, he knew always how to gain him; and "for their friends, they were all his friends on his son's "account. As for the report, that Argyle himself "was getting great things from the English, he said "how much he got, it was always the better for "him: for the business would need it all, for Argyle was a wise man and would not stand in his "way alone. And, to tell truth, he said, I have more of "him than any other; and, except for Cromwell himself, it is certain he carries immortal hatred at Lambert and Monk, and all the rest of their officers. "And of this evidence shall be given anon." Dr. Campbell states, "that, under the usurpation, it was "necessary for the Marquis to disclaim the conduct "of Lord Lorne," but that this never deceived the people in power; and that, from letters in Thurloe's Collection, it appears that Argyle was never considered in any other light but as a concealed royalist, and Lorne as a declared one. Here he seems to have drawn an inference, which his authorities do not entirely support. But, if this were so, what are we to think of the conduct of the King, who consented to the trial,

and signed the warrant for the execution of one of the oldest and best of his friends; his father's yielding an unwilling consent to the death of Lord Strafford hardly equalled this instance of meanness and ingratitude. In the conversation with Don John, he declared he was assured of him, and got more from him than any other; yet this attached and faithful supporter was sacrificed for acts done before he was admitted to the favour, and administered to the wants of his sovereign. But this proposition is so monstrous, and places Charles in a view so much more detestable and wicked than that, in which we have been accustomed to regard him, that we ought to be sure of the grounds we tread upon, and examine with a most scrutinizing eye every circumstance concerning it. Is it not possible that the reporter of this conference may have mistaken its effect; or may not the King have stated in the conversation with Don John his hopes of having the assistance of Argyle too strongly? The object he had in view was of the greatest importance to him; his restoration to the crown might, as he conceived, depend upon the result of that conversation, and if he was not perfectly correct in his statement, it is more charitable to impute the inaccuracy to the hasty and sanguine disposition of youth, which painted in his imagination Argyle exactly what he hoped to find him upon trial, rather than to wilful and deliberate falsehood. Possibly,



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the passage in question may not have been accurately reported, for some parts of it certainly bear a very different construction from that, which, in compliance with Dr. Campbell's hypothesis, we have just put upon it. Don John before he saw the King, for some reason not disclosed, entertained suspicions of the loyalty both of the Marquis and his son; the King evidently makes a distinction between them, he was "perfectly assured" of the son; but as to the father, he seems to admit he was not then acting for him, for he "knew how to gain him," and he states their friends were his friends, not upon account of the father, but the son. He does not deny that Argyle was getting great things from the English, which was the better for him, "for Argyle was a "wise man, and would not stand in his way alone;" and though Argyle hated Monk, and Lambert, and the rest of their officers, the King acknowledges that he did not hate Cromwell. Either, then, the account of this conversation, from its being so very contradictory, is deserving of very little credit, or we must look upon the conduct of the King, as in the highest degree false and disingenuous, and presume that like most other persons, who wish to impose by false stories upon the credulity of others, he was not always consistent in what he said. If there is no mistake in the reporter, it is not easy to reconcile the consolatory declaration, that Argyle was too pru-

dent to stand in his way alone, with the disclosure of the secret that the King had more (we must suppose the expression means) money of him, than of any other. Recollecting then the temptation which presented itself to the King's mind, to say as much as he possibly could in favour of Argyle, we have a right to take all those parts of the conversation, which imply a doubt of Argyle's attachment to the King, in the strongest sense against the Speaker; and so far from affording presumptive evidence that no confidential letters of the sort alluded to, could be written by the Marquis, it affords a strong presumption the other way, for it shews that he was acting under the English power, and therefore probably must have corresponded by letter occasionally with those, under whom he acted.

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Thurloe's Collection of State Papers, was examined throughout by Dr. Campbell; who "notwithstanding his political principles," Mr. Rose says, "was most zealously attached to the family of Argyle." He probably was allied to it, and felt acutely for its honour, which he considered as stained by the conviction of its head of the crime of high treason; for Dr. Campbell was satisfied in his own mind, that the utmost object of the Marquis of Argyle, in all his proceedings in Scotland, was "to restrain the power of the crown within due bounds." With

Thurloe's State  
Papers examin-  
ed,  
Rose, p. 22.Rose, App.  
p. xxxvi, note.



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I.Rose App.  
p. xxxii.

Thurl. i. p. 514.

Rose, App.  
p. xxxiii.Rose, App.  
p. xxxiv.Thurl. vi. p.  
341.

the faculties of his mind, affected by the noblest feelings of his heart, he could not and he did not examine Thurloe's State Papers, with the accuracy, and state the result with the correctness, which generally distinguish his writings. Mr. Rose having referred to the quotations, made in the Biographia, to shew the improbability of the existence of such a correspondence, it may be proper to examine them (as they are neither long nor numerous,) briefly, but in detail. Dr. Campbell, in the Biographia, asserts that upon the usurpation, the disclaimer of the conduct of Lorne by Argyle, "never deceived the people in "power;" and cites a letter in Thurloe's State Papers of the 27th, 1653, before Cromwell was made Protector, which, therefore, can have no reference to the points now in dispute, and "We have," he says in another place, "of late years had great discoveries made of the correspondence under Cromwell's "Government," (alluding to Thurloe's Collection,) "all "which clearly prove that the Marquis of Argyle "was never considered in any other light than that "of a concealed royalist, as his son, the Lord Lorne, "was a declared one." The Doctor is not very fortunate in the two Letters he cites to prove, that Monk was the mortal enemy of the Marquis, and represented him in the blackest terms to both Protectors. The first is from Monk, dated the 10th of June, 1657, accusing him, as Dr. Campbell has fairly stated, of not de-

serving the 12,000*l.* paid him as a debt; and the other of the 30th of December, 1658, is supposed to shew that Monk did not consider Argyle's going up to Richard's Parliament as a compliance with that Government, but as an endeavour to overturn it. These Letters undoubtedly prove, that at the conclusion of Oliver's Protectorate, and the beginning of Richard's, Monk thought ill of Argyle; but the last letter does not charge Argyle with an intent to overturn the Government. The Letter states that Argyle was endeavouring to get Scotsmen chosen for the Parliament, and to procure himself to be elected, notwithstanding he was sheriff for Argyleshire, and adds, "neither do I guess he will do his highness's interest any good." It was very natural, that Argyle should wish his own country not to be represented by strangers, but it is too strong a conclusion that because he endeavoured to exclude them, he wished to overturn the Government.

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I.Thurl. vii. p.  
584.

These are all the quotations, the Doctor has made, in his Biographia, to support his assertions, and all that Mr. Rose has borrowed in aid of his argument. But in the Lives of the Admirals, the Doctor again renews the attack, and says, "the thing is now out of all doubt, for by the publication of Thurloe's State Papers it appears, that Monk never considered the Marquis in this light, but *always* considered him as a secret friend to the King, and

Rose App.  
p. xxxvii.



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“ an active enemy to the Protector's government.”

And for this, he refers generally to the articles Argyle and Monk, in the 3d, 4th, and 5th volumes. The reader may be relieved from the apprehensions of our entering into a minute examination of all the papers referred to, but perhaps he may not be displeased to have laid before him, a short sketch of the whole conduct of Argyle, as contained in that voluminous compilation, by which means the erroneous statements of Dr. Campbell and Mr. Rose may be explained and corrected ; and it will appear, that it is so highly probable, as almost to amount to a certainty, that at one time at least, during Monk's command, there did exist an epistolary correspondence between him and Argyle.

Situation of  
Argyle and  
Monk stated.

The last struggle of the Scots in support of Charles was in 1653 under Glencairn, who was superseded by Middleton. Monk was sent by the Protector to oppose them, and being ultimately successful, remained in Scotland as commander in chief, till he marched to London, and restored the King. Argyle and his son Lord Lorne took opposite sides, the former declaring for Cromwell, and the latter for Charles ; though on the 21st of July, 1654, Lord Lorne is stated to be joined with his father for the English, but that is evidently a mistake, as will appear in a subsequent page. An indemnity being offered by Cromwell, about December, 1654, Lord Lorne who

Thurl. ii. p. 478.

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was an excepted person, at the persuasion of his father, came in, but not till Monk had written to the Protector for his directions, whether he should be permitted so to do, and upon what conditions; but in the May following Lord Broghill declares his opinion that if ever Charles Stuart makes any stir in Scotland, Lord Lorne will occasion it; and in August, he was described to be ready to take up arms for the King, and foment any stirs. On the 28th February, 1656-7, he was in prison in Scotland, and his removal requested; and August the 3d, 1657, Lord Broghill requested he and Lord Glencairn might be sent to England, for there they would be safer kept, and if they two were kept safe, he thought they would hardly have a man fit to head a party in the nation. These passages afford no foundation for a suspicion that Argyle and his son were acting in concert with each other, or that the English government knew it; and that in truth there was no such understanding will be manifested by the following citations more immediately respecting the conduct of Argyle. But it may be necessary to premise that in the charge presented to the Parliament, many acts were alledged against him, as done in various years from 1639 to nearly the abdication of Richard the Protector. But the King having granted an act of indemnity in 1652, none relating to transactions before that time were pressed against him; and, as Baillie tells us, the principal parts of the charges were,

Thurl. iii. p. 28.

Ib. v. p. 18.

Ib. p. 319, 323.

Ib. vi. p. 81.

Ib. 436.

Baillie ii. p. 451.



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I.Thurl. ii. p.  
359.

Ib. p. 475.

Ib. p. 478.

Baill. ii. p. 394.

Clar. St. Pap.  
iii. p. 135.

Ib. p. 165.

" compliance with the English, his 'sitting in the Parliament at London, his assisting Monk against " Glencairn and Middleton on the hills." This last appears to have been considered as a very material charge, and was alledged to have been done in 1654 and 1655. That Argyle was at this period acting in concert with, or rather under the orders of Monk, appears from a letter, written 18th June, 1654, in which he is stated to have been sent by Monk to gather what forces he could against Montrose, who, after chasing Monk to Sterling Bridge, is described to be hunting Argyle. And 19th July, 1654, Cromwell's troops were protecting Argyle's country, which the King's troops had begun to burn. In the same month Argyle is said to have 4000 men, and his son joined with him for the English, as before mentioned, which certainly was not true; for, by referring to Baillie, it seems clear that Argyle and his son were at open variance, and the King's troops who had begun to burn Argyle's country were commanded by, or connected with Lorne.

What was the opinion entertained of Argyle, at an early period, by the King, is manifested by a letter, dated January 18, 1652-3, in which Sir Edward Hyde says, the King "will never trust him," and then calls him "the worst man alive;" and in another letter, dated May 9, 1653, he uses this expression, "fearing " Cromwell much more than I do Argyle." So that

if, as Dr. Campbell asserts, Argyle was *always* a Royalist he was certainly a concealed one in the beginning of 1653, and had taken such effectual pains to conceal his principles, that the King himself had mistaken him for one of his bitterest enemies, and described him as a man not fit to be trusted.

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Baillie corroborates the account given of Argyle, and his connections in the before-mentioned letters; for the 19th of July, 1654, he describes him "as almost drowned in debt, in friendship with the English, but "in hatred with the country." In a postscript dated the next day, after explaining why Monk had been burning the lands of Lochaber, Glengary, and Seaforth, he adds, "Glenorchy had been too great an intelligencer for the English, and sided with Argyle against Lorne his son. So Middleton burnt much of his land. "This burning, now begun on both sides, may ruin the whole country." And the particulars, which in the before mentioned letter, addressed to the Protector, Argyle desires his servant may communicate, probably alluded to his losses and the destruction of his property, in consequence of the severity of Monk, and the retaliation of the royalists. And, possibly, from this letter may be dated the enmity of Monk, which might not shew itself immediately, but was unrelentingly continued till it brought its object to the scaffold. Argyle, however, continued steady to

Baillie, ii. p.  
376.

Ib. p. 381.

Thurl. ii. p.  
517.



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Thurl. ii. p. 28.

Ib. iv. p. 500.

Baillie, ii. p.  
285.

Ib. p. 394.

Thurl. v. p. 18.

the side he had taken; and in December, 1654, Lord Lorne was to meet him, and probably would come in, this circumstance Dr. Campbell relies upon to shew, that Argyle was a concealed royalist, but the fact of the governing power having previous notice that such a meeting was to take place, and giving no orders to prevent it, rather implies that this conference had its approbation and concurrence, especially as Monk wrote to the Protector for directions in case Argyle should prevail upon his son to come in. On the 4th of February, 1654, some intended alterations in the shires in the Highlands are mentioned by Lord Broghill, to which it was expected Argyle's interest would lead him to object. Baillie's Letters now supply some important particulars. On the 20th of July, 1654, Monk, Cowper, Twislington, and Argyle were at Dunbarton, "advising on a hard and sorrowful work, what houses and what corn to burn:" and before the conclusion of the year 1655, probably about the time when the Scottish chiefs submitted to the English, Argyle sought a garrison to lie in the county of Agyle, to keep it from his son's violence. In the next year, it seems that the Protector had in contemplation to do something for Argyle, but his fidelity had been suspected by Thurloe, to whom Lord Broghill, on the 13th of May, 1656, writes, describing him as doing acts prejudicial to his highness's service, and desires he, or the General, Monk, may have

a previous hint of whatever may be intended to be done for him, that his highness may be thoroughly informed. Argyle, it should seem, left Scotland and went to London, where he obtained from Cromwell the sum of 12,000*l* as a debt for maintaining the Scots troops in Ireland, upon the credit of the public faith. And there is no trace of any suspicion of Argyle's fidelity to the cause of the Protector having been entertained by any of the officers of his Government, until the year 1657; when, on 20th May, some cautions were given concerning him, and some meetings he was calling in Argyleshire to pay the losses of the English in 1652; and on 23d May, complaints were made to Monk of his conduct. On 10th June, Monk incloses to Thurloe, four letters, in which he will find what his carriage has been since his coming home, and how ill he deserved the 12,000*l*. which had been given to him, and asserting he could shew he owed 18,000*l*. to the State. On the 15th July, 1657, the Protector Oliver was proclaimed at Edinburgh, Argyle and others of the nobility attending; and Gumble, chaplain to Monk, who writes the letter, relates with exultation, that Argyle was all the while upon the cross, while the proclamation was reading.

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I.Thurl. vi. p.  
295.

Ib. p. 306.

Ib. p. 341.

Ib. p. 405.

Upon the death of the Protector Oliver, in September 1658, Argyle returned into the Highlands oppressed with debts, and the public hatred; but in the latter

L.ang. iii. p.  
467.



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I.Thurl. vii. p.  
584.Baillie ii. p.  
434.

end of December, Monk, as before mentioned, complained heavily of him for opposing the court interest in the election of members to serve in the Protector Richard's, first Parliament, and for wishing to be chosen himself for the county of Argyle. Baillie however informs us, that he was in fact chosen commissioner of Aberdeenshire, and sat in that House of Commons, complied with the Protector as long as he stood, and then with the new Parliament, but finding himself disregarded, slipt home for fear of being arrested for debt, with small credit or contentment, and afterwards was obliged to refund a large sum to Montrose.

The reader will now be enabled to judge of the propriety of the assertions of Dr. Campbell, and the strength of the presumptive evidence of Mr. Rose. From 1652, nearly to the end of 1654, if not to the beginning of 1657, Argyle was acting with the utmost energy, to assist Monk in the subjugation and government of Scotland; he had been sent by Monk to raise forces against Montrose, and in return was pursued by him; his country was protected by Cromwell's troops against the King's, which, commanded by his son, were burning it; and he consulted with Monk and his friends, what houses and what barns were to be burnt. Is it not then highly probable that in the active part he took in these transactions, letters must have

passed between him and Monk? For instance, when under Monk's orders he was raising troops to oppose Montrose, would it not be his duty to communicate an account of his proceedings to his superior officer? or, how could they conveniently act at a distance from, yet in concert with each other, if they were not occasionally to have some written correspondence? The probability therefore is, that Monk would be in possession of letters written by Argyle, which would be most important to prove, at least two of the three charges already mentioned to have been made against him, viz. his compliance with the English, and his assisting Monk against Glencairn, and Middleton on the hills.

And if Argyle was trusted by Monk so late as either of the periods we have alluded to, what becomes of Dr. Campbell's assertion that Monk *always* considered the Marquis as a secret friend to the King's, and an active enemy to the Protector's Government? During a certain period, Monk must have manifested the mortal hatred to Argyle, which the Doctor mentions, in an extraordinary manner; for he confided in, and consulted him upon many occasions, and neither made complaint nor expressed suspicion of his want of attachment or zeal. It is surprising that Dr. Campbell, whose sagacity on other occasions cannot be disputed, should have examined Thurloe's State Papers, and that Mr. Rose, not content with the labours of his precursor, should



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have made a second examination, and neither of them have remarked the difference in the style of the letters concerning the Marquis at the commencement, and conclusion of Monk's command in Scotland. Down to a certain date, he made no complaint of Argyle's conduct, but afterwards changed his opinion, and if Dr. Campbell had confined his assertion to the latter period, and contented himself with saying, that for some years before the restoration he could shew that Monk was the mortal enemy of Argyle, there would have been no ground for dispute.

Extract from  
Skinner's Life  
of Monk.

Having proved that it is highly probable that Monk did receive letters from Argyle, which might very materially affect his life, the next question is, did he produce them to the Parliament, which was sitting in judgment upon the Marquis. All the arguments produced by Mr. Rose have been answered already, except the extract from Skinner's Life of Monk, which he cites to shew that such a glaring crime did not agree with Monk's character, and that he was of no betraying spirit. Mr. Rose contents himself with barely copying the passage without telling us, how the facts contained in it are to be applied to the argument. He probably cites it in deference to Dr. Campbell, who had quoted it before, or perhaps as a mark of gratitude to his memory, as his widow, had presented him with all her husband's papers, for if any corroboration of the

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truth of the character given of Monk by Mr. Fox should be thought necessary, the situation in which Skinner describes him to have been placed, and to have displayed such moderation and generosity in the forgiving of injuries would afford it. This biographer had been chaplain to Monk, and Mr. Rose says, he "would not have ventured to make a false assertion at a time when the means of contradicting it were in the hands of every one." To this, as a general proposition, we cannot accede, for folly and wickedness are often united, and impudence frequently their companion. The particular merit of Skinner we shall now discuss. The passage, is copied at length here. "In the number of the commissioners, the Duke of Albemarle was one; wherein he gave the world one of the greatest instances of his moderation; for though he knew more of the guilt and practices of these criminals than most of those who sat on the bench, and some of them had been his greatest and most inveterate enemies, yet he aggravated nothing against them, but left them to a fair trial and the methods of their own defence, when he could have offered matter against some of them that would have pressed them harder; and, by a generous way of forgiving injuries, he had a little before saved the life of Sir Arthur Haslerigg, and afterwards procured his estate also, by owning a promise made to him, when there was no man among them all

Rose. p. 25.

Ibid.



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“ who had more maliciously exposed or traduced  
“ him.” Skinner must have been blinded by that  
partiality for his patron and friend, which is so apt  
to lead the faculties astray, and warp the judgment,  
when he boasts of the moderation of the Duke of Alber-  
marle, sitting as one of the commissioners to try the  
regicides. It is scarcely within the verge of possibi-  
lity, that he could have forgotten himself, or that he  
could conceive that in history it would not be recorded,  
that Monk, though not guilty of the precise crime for  
which they were to be tried, had waded to his  
dukedom through bloodshed, duplicity, and crimes.  
Truly it is said, that he knew more of the guilt and  
practices of the criminals than most of those upon  
the bench; for he had been a participator with some  
of them. He was too young and insignificant at the  
death of Charles the First to have been placed in the  
situation of one of his judges; but he afterwards rose  
into eminence under Cromwell, the author of that  
tragedy, assisted him assiduously in his misdeeds, both  
in the cabinet and the field, and probably became the  
restorer of monarchy, only because he was disap-  
pointed in his hope of succeeding to the Protector-  
ate on the abdication of Richard. He had recently  
acted with some of those who were brought before him  
for trial, and his crimes deserved the same punish-  
ment which he unblushingly concurred in inflicting  
upon theirs. To his duplicity of conduct may be

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principally attributed the destruction of his friends, who were prevented, by their confidence in him, from taking measures to secure themselves; for though he entered England with his army on the 2d of January, 1659-60, yet he did not make even the confidential servants of the King acquainted with his intentions to serve him, till about the middle of March, 1659-60;\* and on 13th February, had written to Sir Arthur Haslerigg that a commonwealth was the desire of his soul. Misled by Monk's assurances, and relying upon his support, the commonwealth party, headed by Bradshaw, Haslerigg, Vane, and Scott, counted upon the assistance of the army; but he secretly made his peace with the King, and became a lord commissioner to try some of them at least whom he had a few weeks before acted with, and promised to support. But his infamy does not end here; for before the 13th of May he was consulted upon the intended Bill for indemnity, and actually marked out the culprits he afterwards sat as a judge to try; for out of the number of delinquents, he "was content that about six be excepted for that horrid murder of his majesty, and made remarkable in their execution."

Clar.St. Pap.iii.  
698.699 701.

Ib. p. 421.

\* Sir John Greenville reached the King on the 26th March, 1660, with Monk's proposals to restore him *without conditions*, before the proposers to bring him in upon the Articles of the Isle of Wight arrived, and he shewed their letter to Sir John, and laughed at it. Kennett's Hist. Reg. p. 97. This letter must have been sent by the Junta mentioned, *ante* page 39.

Ib. p. 748.



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I.Hutch. Mem.  
P. 372.Monk's betray-  
ing spirit.Lud. Mem.  
P. 412.

And Mrs. Hutchinson has described his conduct in the House of Commons during the progress of the Bill, in the following words: "Monk after all his great professions now sat still, and had not one word to interpose for any person, but was as forward to set vengeance on foot as any man." The latter part of the passage in Skinner proves that he had the power to save, for he preserved to Sir Arthur Haslerigg both his life and estates. In the trial of the regicides, Monk was not a mere tranquil spectator; he was both prosecutor and judge. And his sitting upon the bench, under such circumstances, without a single instance of interfering for mercy to any of the culprits, even for those, as Scott and Hacker, with whom he had lived in habits of intimacy and friendship, proves that his treachery was in strict consistency with other parts of his character. Why then should it be improbable that he should betray Argyle, when he had betrayed so many others? Ludlow records a remarkable instance of his possessing a betraying spirit; Lieutenant Colonel Hacker had raised a regiment for the Parliament, in the command of which he continued till he was taken into custody, having indiscreetly trusted to Monk's promises of full indemnity. When he came to London, he visited Monk, and was received with all the appearances of friendship and affection. But the next day he was seized, examined, and sent to the Tower. He was one

of the prisoners brought before the commissioners to be tried; was convicted and executed.

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Can any human mind contemplate Monk selecting this victim, and sitting on this trial, without feelings of indignation? and yet because he did not aggravate the crime against him, his chaplain makes it a subject of applause, and holds him up to admiration, and Dr. Campbell and Mr. Rose refer to his conduct as presumptive proof that his mind was too honourable to have betrayed the letters of Argyle. Mrs. Hutchinson has preserved another trait connected with these trials, characteristic of the heart of Monk, of which she was herself an eye witness; after describing the persecution to which the prisoners were subjected, she says “ I cannot forget *one passage that I saw*, “ Monk and his wife, before they were moved to the “ Tower, while they were yet prisoners at Lambeth “ House, came one evening to the garden, and caused “ them to be brought down, only to stare at them. “ Which was such a barbarism, for that man who had “ betrayed so many poor men to death and misery, that “ never hurt him, but had honoured him, and “ trusted their lives and interests with him, to glut “ his bloody eyes with beholding them in their bondage, “ as no story can parallel the inhumanity of.” But Monk’s barbarism did not end here, for she declined to mention, that he afterwards sat as a judge to try them.

Hutch. Mem.  
p. 378.



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I.

Monk's conduct to Sir Arthur Haslerigg.

The last source of panegyric from the pen of Skinner, is Monk's generous way of forgiving injuries, by saving the life and estate of Sir Arthur Haslerigg by owning a promise made to him, (which Dr. Campbell doubts was ever made) when no man among them had more maliciously exposed or traduced him. The topic selected for encomium may be added to the long list of proofs of Monk's infamy and baseness. He is praised for saving a man from the punishment due to crimes, to the commission of which he had himself contributed, and the advantage from which he had largely reaped; and this praise is enhanced by the circumstance of the culprit having abused and traduced him, as foreseeing the treachery and inconsistency of his future conduct. In any other case it might be remarked that there was nothing remarkably generous in keeping a promise he had made; but perhaps it is mentioned as a solitary instance of fidelity in the performance of his engagements. In the case of Colonel Hacker we have seen, that he was not scrupulously exact upon all occasions. But there is a gross misrepresentation, or a paltry quibble in Skinner's statement, for that Sir Arthur Haslerigg who was a staunch republican, had opposed Monk's proceedings upon many occasions, before and after Richard's death, may be very true; but after the republican interest in the Parliament had extinguished the hopes of Lambert, Monk thought fit to conciliate it. Being a perfect master

in dissimulation, he first gained the confidence of Sir Arthur Haslerigg, and persuaded him that he was a republican, prevailed upon him to vouch for his principles to his friends, and continued to delude him, and them, till finding there was no chance of obtaining the reins of Government, nor even the command of the army, he threw off the mask and avowed himself the decided friend of royalty and the King. To Sir Arthur's credulity and exertions, Monk owed the success of his enterprise, and as Sir Arthur had prudently made a stipulation for his safety, in case of a change, the condition of his continuing faithful to Monk, he would have been not only one of the most ungrateful, but one of the most wicked of men, if he had broken his promise under such circumstances; but the performance of it had no resemblance to a generous way of forgiving injuries. It is stated that Sir Arthur Haslerigg's interest was likely to continue, Monk being his friend, in a letter from Lord Mordaunt, dated 31st October, 1659; and on the 26th January, 1660 he writes, "Had Monk stood right the House had shifted for themselves this day; but Sir Arthur Haslerigg quitted Lambert, and closed with Monk." On 2d February their connection is thus described: "Haslerigg will submit to ruin, as Salway and Fleetwood have done, if the House pursue this conspiracy. Monk being to him as Augustus to Antony, of a mastering genius, nor will he ever hate him less, or brook his presence better;

SECTION  
I.Ludi. Mem. p.  
365.

Clar. iii. p. 598.

Ib. p. 660.

Ib. p. 666.

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“ but their parallels neither in good or ill will appear  
“ Roman.”

Clar. St. Pap.  
iii. p. 740.

It appears that Monk and Sir Arthur lived upon terms of the greatest intimacy and friendship, and when Sir Arthur began to be alarmed at the approaching storm, and feel apprehensions for his own safety, Monk endeavoured to make him easy, by promising him protection, for in a letter of the 7th of May, 1660, we find this passage:—“ About two months since, “ Sir Arthur Haslerigg discoursing with General Monk “ of the turn of the times, and the danger of his own “ head, the General told him he would secure it for “ two-pence; and about two days since, Haslerigg sent “ him a letter with two-pence in it, to remember him “ of his promise, which Monk saith he will make “ good.” He did make it good, and we have no disposition to deprive him of the credit of the act, or examine his motives for it; it is sufficient at present to observe, that it is not of the same description with that, for which Skinner applauds him.

Recapitulation  
of proofs.

Rosc, p. 26.

Having examined and commented upon the evidence produced by Mr. Rose, than which “ it is hardly possible,” he says, “ to conceive that stronger could be “ formed in any case, to establish a negative,” we now safely assert, that Mr. Fox had fully informed himself upon the subject before he wrote, and



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was amply justified in the condemnation of Monk, and the consequent severe censures upon him. It has been already demonstrated, that the character of Monk, had been truly given, when of him, he said, "the army" "had fallen into the hands of one, than whom a baser" "could not be found in its lowest ranks." The transactions between him and Argyle for a certain period of time, was such as must, naturally if not necessarily, have led them into an epistolary correspondence, and it was in exact conformity with Monk's character and conduct to the regicides, that he should betray the letters written to him, in order to destroy a man, whom he had in the latter part of his command in Scotland, both feared and hated. If the fact of the production of these letters had stood merely on the testimony of Bishop Burnet, we have seen that nothing has been produced by Mr. Rose and Dr. Campbell to impeach it; on the contrary an inquiry into the authorities and documents, they have cited, strongly confirm it. But as before observed it is a surprising instance of Mr. Rose's indolence, that he should state the question to depend now, as it did in Dr. Campbell's time, on the Bishop's authority solely. But that authority is, in itself, no light one. Burnet was almost eighteen years of age at the time of Argyle's trial, he was never an unobserving spectator of public events; he was probably at Edinburgh, and for some years afterwards remained in Scotland, with ample

Burn. i. p. 124.

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Baillie, ii. p.  
451.

Cun. i. p. 13.

means of information, respecting events which had taken place so recently. Baillie seems also to have been upon the spot, and expressly confirms the testimony of Burnet. To these must be added Cunningham, who writing, as a person perfectly acquainted with the circumstances of the transaction, says, it was owing to the interference of Monk, who had been his great friend in Oliver's time, that he was sent back to Scotland, and brought to trial; and that he was condemned chiefly by his discoveries. We may now ask where is the improbability of this story, when related of such a man? and what ground there is for not giving credit to a fact attested by three witnesses of veracity, each writing at a distance, and separate from each other? In this instance, Bishop Burnet, is so confirmed that no reasonable being, who will attend to the subject, can doubt of the fact, he relates, being true; and we shall hereafter prove, that the general imputation against his accuracy, made by Mr. Rose, is totally without foundation. If facts so proved are not to be credited, historians may lay aside their pens, and every man must content himself with the scanty pittance of knowledge, he may be able to collect for himself, in the very limited sphere of his own immediate observation. Burnet has shewn some forbearance in his account of this trial, for he only charges upon Monk, the having searched for and sent the letters of Argyle, but Cunningham states that he was the instigator of the prosecution,

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and Baillie that he sent the letters, when in the course of it, he apprehended that the life of Argyle was likely to be saved, that the King might not relieve him. Burnet says, the letters were sent by an express and came to the Earl of Middleton, when probation was closed on both sides, and the Lords were engaged in the debate, notwithstanding which, contrary to the forms of justice, he ordered them to be read, and they silenced all further debate, for it could not then be pretended that his compliance was feigned, or extorted from him. Argyle's friends went away, and he was found guilty. The circumstances here mentioned, of the letters not arriving till after probation was closed, explain satisfactorily why they are not noticed in any of the printed accounts of the trial, or proceedings.

The next passage in the Historical Work, which has provoked the displeasure of Mr. Rose, is that, in which the reign of Charles the Second is described, as "the æra of good laws and bad government," and Mr. Fox says, "the abolition of the Court of Wards, the repeal of the Writ *de Heretico Comburendo*, the Triennial Parliament Bill, the establishment of the rights of the House of Commons in regard to impeachment, the expiration of the Licence Act, and above all, the glorious statute of Habeas Corpus have, therefore induced a writer of great eminence to fix the year 1679, as the period in which our constitution

*Æra of constitutional perfection, in 1679  
Fox p. 20.*



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“ had arrived at its greatest theoretical perfection ; but he  
“ owns in a short note upon the passage alluded to, that  
“ the times immediately following were times of great  
“ practical oppression. What a field for meditation does  
“ this short observation from such a man furnish !  
“ What reflections does it not suggest to a thinking mind  
“ upon the inefficacy of human laws, and the imperfec-  
“ tion of human constitutions ! We are called from the  
“ contemplation of the progress of our constitution, and  
“ our attention fixed with the most minute accuracy to a  
“ particular point when it is said to have risen to its  
“ utmost perfection. Here we are then at the best mo-  
“ ment of the best constitution that ever human wisdom  
“ framed. What follows ? a time of oppression and mis-  
“ ery, not arising from external or accidental causes,  
“ such as war, pestilence or famine, nor even from any  
“ such alterations of the laws as might be supposed to  
“ impair this boasted perfection, but from a corrupt and  
“ wicked administration which all the so much ad-  
“ mired checks of the constitution were not able to  
“ prevent. How vain then, how idle, how presumptu-  
“ ous is the opinion that laws can do every thing !  
“ and how weak and pernicious the maxim founded  
“ upon it, that measures, not men, are to be attended to !”

If an apology for so long a quotation be deemed necessary, the manner in which this passage has been tortured and misrepresented affords one. The reader

has now the whole before him, and may judge for himself, as we advance in the argument, whether it has been treated with candour or not.

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Mr. Fox might conceive himself to be fully justified in speaking thus highly of a particular æra, by the authority of so respectable a name as that of Mr. Justice Blackstone. Mr. Rose admits that in his Observations, he has taken advantage of the learning of that judge, but allowing for all the deference due to him, claims the right of examining and canvassing "any *dictum* of his." It is ludicrous that, in justification of his taking this liberty, he should think it necessary to tell us in a note that Lord Coke, "one of the "very highest, legal and constitutional authorities," has lately been found inaccurate in two points, noticed in his report on the public records. No apology, surely, can be necessary for canvassing any opinion presented to the public. Sir Edward Coke no doubt has made many blunders, and this note gives us the interesting information that Mr. Rose claims the merit of having detected two of them. With regard to the first, if there is any error at all, it happens that Mr. Prynne anticipated the discovery 150 years ago, and it is probable Mr. Rose was not ignorant of it, for he had the book before him; and with regard to the second, he seems not to have understood Sir Edward Coke for the statute he quotes to prove the mistake, unfortunately, is irrelative to the point in dispute.\*

Rose, p. 27.

\* The substance of the second proposition of Sir Edward Coke, to which Mr. Rose has rashly given the epithet of inaccurate is, that

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Theoretical  
perfection ex-  
plained.

I am not sure that the expression, "theoretical perfection," incorrectly used in Mr. Justice Blackstone's note, may not have led both Mr. Fox and Mr. Rose into an error; for they both seem to have understood it to mean utmost theoretical perfection, beyond which it was impossible for human wisdom to go; but that was not the meaning of the learned judge himself. He asserts, and thinks he has demon-

Report of Re-  
cords, p. 45.

"if an Act mentions only that the King enacts, and the Lords assent, without naming the Commons, the omission cannot be supplied by any intendment." And Mr. Rose, in order to shew Sir Edward Coke is not correct, cites the Stat. 1 Ed. 6, against exporting horses, which, although in it the Lords are not mentioned as assenting, yet has always been considered as a valid Act of Parliament. It runs thus, "for remedy whereof be it therefore enacted by our Sovereign Lord the King, and by the Commons in this present Parliament assembled, and by the Authority of the same," &c. Here is a proof that a little learning is a dangerous thing, for this Act of Parliament has no relation whatever to Sir Edward Coke's position, which is perfectly correct, and has been confirmed and settled by solemn decisions. A passage from another of Sir Edward Coke's works will explain the mistake, into which Mr. Rose has fallen: "If" says he, "an Act of Parliament be penned by assent of the King, and of the Lords Spiritual and Temporal, and of the Commons, or *it is enacted by Authority of Parliament*, it is a good Act." So the Statute of 1 Ed. 6, above mentioned, being enacted *by the Authority of Parliament*, which it could not be, if the Commons had not assented; and this appearing upon the record itself, and not by intendment, it falls within the last mentioned rule, and is consistently with the original proposition of Sir Edward Coke, as quoted by Mr. Rose, a good Act of Parliament. The Statute of *Quia Emptores* is a still stronger instance, for in it the King alone speaks, *Dominus Rex in Parlamento suo, &c. ad instantiam Magnatum Regni sui concessit, &c.* yet the words *Rex in Parlamento suo, &c.* it being an ancient Statute, have been held to be equivalent to *Dominus Rex auctoritate Parliamenti concessit.*

Rep. viii.  
p. 20. b.

Co. Lit. p. 93.



strated that the constitution had arrived at its full vigour, and the true balance between liberty and prerogative was happily established by law, in the reign of Charles the Second; and adds, "What seems incontestible is this, that *by the law*, as it then stood, (notwithstanding some invidious, nay, dangerous branches of the prerogative have since been lopped off, and the rest more clearly defined) the people had as large a portion of real liberty, as is consistent with a state of society, and sufficient power, residing in their own hands, to assert and preserve that liberty, if invaded by the royal prerogative. For which I need but appeal to the memorable catastrophe of the next reign." The following note is subjoined. "The point of time at which I would chuse to fix *this theoretical perfection* of our public law is the year 1679, after the Habeas Corpus act and that for licensing the press had expired; though the years which immediately followed it were times of great practical oppression." The theoretical perfection mentioned in the note, is made expressly to refer to the circumstances stated in the text; but Blackstone was aware, that it still admitted of improvement, and alludes to certain very proper diminutions and restraints of the prerogative, which have been made since.

SECTION  
I.Com. iv. p. 439,  
440.

It is observable, that out of the circumstances enumerated by the judge, Mr. Fox has selected only

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four, which he supposed to be of the greatest importance, and to them, has added two, which the judge had omitted to notice, yet Mr. Rose, with that precise correctness, which can be obtained only from official accuracy, has considered *all six*, as first adduced by the learned judge, and then adopted by Mr. Fox, and accordingly has examined each separately.

Abolition of the  
Court of Wards,

Whether Mr. Rose's history of wardships be correct or not, it is not necessary to inquire. And as he does not object to the statute by which they were abolished, being reckoned among those which tended to the theoretical perfection of the constitution, he might have spared the information, that it relieved the great landholders from a very oppressive burden. But the statement that, for it, a valuable consideration was paid by the grant of a perpetual excise, and that the question in favour of the commutation was carried by the friends of Government, by a majority of only two, is not correct.

Journ. viii. p. 45,  
117, 178,

The original compensation intended to be settled on the King, his heirs and successors, in lieu of the profits arising to the Crown from the Court of Wards and Liveries, and tenures by Capite and by Knight's service, was 100,000*l.* per annum, to be charged on all lands; and a select committee had actually proceeded to fix the

apportionment of it upon the different counties.\* This compensation was afterwards changed; no specific sum was to be paid to the Crown by way of annuity, but, in consideration of the King giving up purveyance, as well as the profits above mentioned, it was finally resolved on the 21st of November, 1660, that there should be settled on the Crown one moiety only of a perpetual excise, on certain articles, and after the previous question negatived, this motion passed without a division. An attempt was made to settle the other moiety on the King for life, as part of 1,200,000*l.* granted before, and negatived by the opponents of Government by a majority of two, 151 to 149, which must be the division, to which Mr. Rose has alluded. With the Journal before him how can such a mistake be accounted for? he takes the proper pains to inform himself; the entry is a short one, yet in the attempt to transfer its substance to another piece of paper, something totally dissimilar to the original is produced.

SECTION  
I.Journ. viii. p.  
186, 187.

Mr. Rose next observes of the *Writ de Heretico Comburendo*, that it “had been a dead letter for more than a century, and that there was not the remotest

Writ de Heretico  
Comburendo.

\* This curious paper, which shews the relative importance of the counties to each other at that time, is preserved in vol. VIII. p. 178 of the Journals, and a list of the officers of the Court of Wards and Liveries, with the value of their offices, and the compensation for the abolition of each is at p. 219.



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Bl. Com. iv. p.  
49.  
Full. Ch. Hist.  
p. 62, 64.

Com. iv. p. 49.

Bill for Trienni-  
al Parliaments.)  
Rose, p. 29.

“ chance of its ever being revived.” The first of these observations is not accurate, for it had been put in execution in 1612, the ninth of James the First, when two Arians, Bartholomew Legate, and one Wightman were burnt, the former in Smithfield, and the latter at Litchfield. The second is a matter of speculation, Mr. Rose, more than a century after this Writ was taken away, in the spirit of a tranquil philosopher, may think its removal of no consequence; but probably the prospect of a popish successor, and the violence of those times might have induced the protestants in the reign of Charles the Second, to form a different opinion of the prospect of this Writ being brought again into use. Blackstone evidently considered its abolition as an important accession to the liberty of the subject, “ For in  
“ one and the same reign,” says he, “ our lands were  
“ delivered from the slavery of military tenures, our  
“ bodies from arbitrary imprisonment by the Habeas  
“ Corpus Act, and our minds from the tyranny of super-  
“ stitious bigotry, by demolishing this last badge of  
“ persecution in the English Law.”

The Triennial Parliament Bill, Mr. Rose says, “ was  
“ a most extraordinary measure for exultation,” and gives as a reason, that by an Act passed in the fourth year after the restoration, a law made in the Long Parliament, enacting most effectual provisions, that could not be defeated, or evaded by the crown, or its ministers,

to ensure the meeting of a Parliament, and the continuance of its sitting once in three years, at the least, had been repealed; and in 1679, that repealing law was in force, simply enacting, that, the sitting of Parliament should not be intermitted or discontinued more than three years, without one compulsory clause to give it effect, and therefore occasionally violated.

Mr. Rose, having settled in his own mind, that Mr. Fox was attached to republican principles, and a hater of monarchy, fancies he sees a democratic tendency in every observation in the Historical Work. This groundless prejudice leads him into perpetual mistakes, and clouds almost every transient gleam of candour. Happily for Mr. Fox upon this occasion, he and Mr. Justice Blackstone must take their fate together; they both agree that the repeal of the Act, passed by the Long Parliament, was an amendment of our law. Mr. Fox entertained no principles hostile to the form of Government under which he lived; he was a friend to a limited monarchy, and this is a direct proof of it, though Mr. Rose did not make the discovery. The people have their rights and the King his prerogative, and one branch of that prerogative is, the power of assembling the Parliament. Mr. Fox conceived that to deprive the King of that power, in any case, was an improper and dangerous restriction, and that its repeal was necessary to establish what Mr. Justice

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I.Bl. Com. i. p.  
151.

Blackstone denominated, the true balance between liberty and prerogative. To that balance Mr. Fox was a zealous friend, and the reader has seen how Mr. Rose, hitherto, has failed in every effort to impute republican sentiments to him; and he will have to remark a similar failure in every other attempt of the same kind, throughout the Observations. What were the grounds of Mr. Justice Blackstone's opinions, he has stated in the following passage, which the reader will recollect must be taken as the language of Mr. Fox also, who, as Mr. Rose contends, has adopted, in this instance, the opinion of the learned judge. Alluding to the act passed by the Long Parliament, he says. "But this, if ever put in practice, "would have been liable to all the inconveniences "I have just now stated." (viz. such as would arise if the time of assembling the Parliament was left to itself, and not to the King.) "And the Act itself "was esteemed so highly detrimental and injurious "to the royal prerogative, that it was repealed by "Stat. xvi. Car. II. c. 1." The opinion of Lord Somers, whom Mr. Rose professes to admire, and the Whigs, who were most zealous for the Revolution, did not differ from that of Mr. Fox, and it was not thought right, at that time, to restore this law to the Statute Book. Perhaps the reader may now entertain a doubt whether Mr. Rose by so highly applauding this statute, "derogatory to the King's "rights," has not exhibited some proof of his having

See Rose, p. 30.



more of a republican spirit, and being less zealously attached to monarchy, than either Mr. Fox, or Mr. Justice Blackstone.

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Mr. Rose more  
democratic than  
Mr. Fox.

“ The establishing of the right of the House of Commons, in regard to impeachment,” Mr. Rose remarks, is not easy to be understood ; and that he did not understand it is very clear. “ That right ” he says, “ it is conceived, had never been disputed,” erroneously assuming that Mr. Fox was speaking of the general right of the Commons to impeach ; but Mr. Fox is alluding to the right of the House to proceed in an impeachment, notwithstanding the culprit should have been pardoned by the Crown after the proceedings were commenced, and had pleaded such pardon in bar. Nobody acquainted with the proceedings against Lord Danby in this very year, can hesitate about the meaning of Mr. Fox's words. The King pardoned Lord Danby, putting the Great Seal to the grant with his own hand. Lord Danby was, however, compelled to appear to the impeachment against him, for fear of a Bill of Attainder, and pleaded his pardon, and the Commons denied its validity, and passed a vote that a pardon is not pleadable in bar of an impeachment. In the result, Danby was saved, but the Commons gained such advantage by the contest that the right they contended for was not likely to be again disputed, and therefore, in one sense of the word, may be said

Right of the  
Commons as to  
Impeachments.

Rose, p. 81.

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12 and 13 W. 3.  
c. 3. s. 3.  
Bl. Com. iv. p.  
399.

to have been then established, especially as so soon afterwards it was sanctioned by the Legislature.\* This right claimed by the Crown in the case of Lord Danby, does not appear to have been attempted to be exercised in any former instance, and the resistance to this innovation was absolutely necessary, for if this right appertained to the Crown, impeachments of its ministers or favourites might always be rendered nugatory. The Commons renewed the vote, that a pardon is not pleadable in bar to an impeachment in 1689, and a few years afterwards their claim was, as before mentioned, established by an Act of Parliament. The right of the King to pardon *after conviction* was never disputed, and in 1715, he reprieved several times, and at last pardoned three of the six rebels, Lords who had been impeached and attainted.

The expiration of the Act preventing the publica-

\* In the ensuing year, when the Duke of York was sent into Scotland, he wished to have had a pardon for his protection, in case the House of Commons should take any steps against him in his absence; and it seems that the Earl of Anglesea, then Lord Privy Seal, and many others of the Council, advised the King to comply with the Duke's request, but the ground stated for that advice was not the validity of the pardon; but that if the Duke should be impeached, or a Bill to attain him brought in, the pardon being disputed would be a good excuse for dissolving the Parliament, which would then appear to be done, not in maintenance of Popery, but the prerogative. The King, however, at this time, was so highly exasperated against his brother, that he would not consent. Minutes of the Earl of Anglesea at the Council, 15th October, 1680. Dal. Mem. ii. 328.

tion of books without a licence, is the next particular mentioned by Mr. Fox, as contributing to make the reign of Charles the Second the æra of good laws. And is, Mr. Rose says, "the most extraordinary of the whole." But it is not more extraordinary than his comment upon it, for he contents himself with agreeing with Mr. Fox, that the "Act itself" was unquestionably a great restraint on the freedom of the press," but observes, that it was merely temporary, and had been suffered to expire. From its expiration till the end of the reign of Charles the Second, the press was under no legislative restraint, and surely this was also a circumstance conducing to the theoretical perfection of our constitution, unless Mr. Rose should be of opinion that the liberty of free discussion through the medium of the press, is, in itself, a grievance. Possibly this observation is founded upon a misapprehension of the meaning of the word "laws," which Mr. Rose would explain to mean statutes only, we may then account for this instance as he calls it, being denominated the most extraordinary of the whole; for how, he might say, can any Statute that is expired and no longer existing, make any of those good ones, which entitled this æra to be so distinguished. But Mr. Fox does not use these words synonymously, he does not speak of an æra of good statutes only, but of good laws generally. The repealing of all the statutes now in force would not

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Expiration of  
the Licensing  
Act.

Rose p. 32.



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leave us without laws. And the expiration of an-improvident statute did not render the remaining laws less deserving of applause, than they would have been if it had never been enacted.

Habeas Corpus  
Act.

Even the Habeas Corpus Act, because mentioned by Mr. Fox, must have its comment; of its importance to the liberty of the subject, Mr. Rose is fully sensible, but we are told, to prove that there is something improper in Mr. Fox's alluding to it, that it had its origin in a former reign. He however admits, that "the Act passed in 1679 greatly extended the remedy, "and made it effectual;" and this is all that is necessary for the justification of Mr. Fox, for it can be of no importance in what reign it originated, if in the year he alludes to, it was brought into its most perfect state.

Mr. Rose's  
comments con-  
sidered.

Mr. Rose then proceeds to comment upon other parts of the passage, which he gives by piecemeal, but which we have copied entire from the Historical Work; so far as he has animadverted upon it. The manner in which he has separated it into such portions as best suited his purpose, must have been adopted without much inattention, for a wilful departure from candour is not here imputed. Mr. Fox begins by stating the result of his own consideration of the reign of Charles the Second to be, that it was "the æra of good laws and

“bad government.” Mr. Justice Blackstone in his Commentaries has enumerated a variety of Statutes which had been made, and circumstances which existed in that reign, tending to fix the true balance between liberty and prerogative, and happily giving, as he thought, “a theoretical perfection” to our laws at a certain period of it. Mr. Fox states these particulars, on which he presumed the judge’s opinion must have been principally founded; and upon a remark, that this period of perfection was immediately followed by times of great practical oppression, without giving any opinion himself, says, “what a field for meditation does this short observation *from such a man* furnish;” and in pursuing the reflections which naturally arose in his mind, he says, “Here we are then at the best moment of the best constitution ever human wisdom framed. What follows,” &c. Mr. Fox does not give this as his own description, but that of Blackstone; and therefore upon his view of the political state of the country the subsequent reflections are founded.

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The reader will recollect that Mr. Justice Blackstone, in the passage already cited, has stated that, after this period of theoretical perfection, “some invidious, nay, dangerous branches of the prerogative” have since been lopped off, and the rest more clearly de-

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fined. Mr. Rose fixing upon the words of the note, and not regarding the exception, which the judge had made in the text, proceeds to object to this æra of theoretical perfection being properly chosen, because imperfections still remain in our constitution. With this position the learned judge would certainly have agreed; and when Mr. Rose tells us, that in the very next year the House of Commons, aware that there were such imperfections, attempted to remedy them and failed, the judge would have joined with Mr. Rose in regretting, that any improvements, which were then suggested, should have been postponed to a future period.

Throughout his Observations on this part of Mr. Fox's book, Mr. Rose has mistaken the object and course of reasoning of the author. Many other instances of similar misapprehension have been pointed out already, and many others will occur in the course of our examination of his work. No intentional deviation from the strict line of rectitude is imputed, but a stronger series of proofs cannot be required to manifest the inferiority of his reasoning powers to those of Mr. Fox, which he has himself so candidly acknowledged. Mr. Fox's course of argument is this: at this time, so many circumstances had concurred to improve our law, that a great authority, Mr. Justice Blackstone is induced to denominate it



the period at which our constitution attained its greatest theoretical perfection; and yet, by the acknowledgement of all men, and the admission of Blackstone himself, this period is followed by times of great practical oppression. If then a period of laws so good, as to induce a judicious and most able writer to fix upon it as a period of theoretical perfection, be followed by times of practical oppression, how vain then, how idle, how presumptuous the opinion, that laws can do every thing, &c. To this passage Mr. Rose objects, that this was not a period of perfection in our constitution, but it is the point, at which an eminent writer fixes that perfection, which is all that Mr. Fox states, and all that is necessary for his argument to be admitted. Mr. Rose then proceeds triumphantly to suggest, that chiefly through the dependence of the judges upon the Crown, coupled with the defect of not holding Parliaments frequently, a time of oppression and misery did succeed the period so often mentioned. But he forgets that this suggestion, so far from being the confutation, is the evidence and proof of the justice of Mr. Fox's observation.

Mr. Rose takes an opportunity of descanting upon the importance of judges being independent of the Crown, and of shewing that instances had occurred in the reigns of Charles the First and Second, of removals

Importance of  
Judges being  
independent.

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of judges to answer the purposes of the court.\* Of the extreme importance of persons in judicial situations being perfectly independent, and free from influence, it is impossible to have too high an opinion. That independence is the source of security, confidence, and happiness to all. While it preserves the great liberty of the whole mass of the people, it protects each individual in the enjoyment of his property, his family, his liberty, his life, in short, of all that is dear to man. The general persuasion of the independent and honourable conduct of the judges in this country, has inspired even the lowest classes of its people with strong feelings of personal consequence, and independence. The poorest labourer knows full well that the hand of oppression cannot be laid upon him, without incurring the penalties of laws, which make no distinction of persons, and are administered with the strictest impartiality. This has

\* These instances, few in number, are thrown together in a very slovenly manner, and as our historians in general seem not to be aware of the extent to which the prerogative was exercised in the removal of judges, a list of most of those who were displaced at different times will be given in the Appendix, but is not offered as perfectly correct. The public have to acknowledge its obligation to Mr: Rose, for a note, stating, from the records, the tenure by which the judges held their offices, previously to the concluding part of the reign of Charles the Second; although a doubt arises, as will be pointed out hereafter in the Appendix, whether the information there given is to be implicitly relied upon.

given to our Government stability and strength; and enabled this island to resist with success the utmost exertions of a gigantic power, straining every nerve to destroy its happiness. The people spontaneously, and cheerfully rally round the standard of a Government, under which, notwithstanding all its imperfections, its subjects are individually possessed of more happiness, and liberty, than ever fell to the lot of any other nation upon the face of the earth.

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The time of oppression and misery, which followed, not, as Mr. Rose states, "the æra selected by" Mr. Fox, but "the period of theoretical perfection," pointed out by Mr. Justice Blackstone, Mr. Rose thinks is to be attributed to two causes, the want of an effectual provision "to guard against long intervals of Parliament, and to secure the independence of the judges."

Rose, p. 36.

He is not yet satisfied with the repeal of that "very effectual" Act, as he terms it, passed by the Long Parliament, which Mr. Justice Blackstone and Mr. Fox conceived, with the legislature which repealed it, to be derogatory to the rights of the Crown. He is so zealous a friend to the frequent meeting of Parliaments, that to secure that blessing to the people, he would trench deep into the royal prerogative, and after a default on the part of the King, even allow the members to as-

Mr. Rose again regrets a statute derogatory to the King's rights.  
Ib. p. 30.



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semble without his summons. This, as has been observed before, Mr. Fox disapproved of.

Rose, p. 36.

After he has set up his own hypothesis he combats Mr. Fox's, that the time of oppression and misery above alluded to, was owing to a corrupt and wicked administration, and says the question between them is answered by experience, referred to by Mr. Fox himself. Now in what manner this answer is to be inferred is left to the reader to discover, for certainly the passage does not seem immediately to apply to the subject. But Mr. Rose shall speak for himself, these are his words, "for in another part of his work " when he compares the culpable proceedings of Lord " Godolphin and Lord Churchill in the reign of James " the Second with their meritorious conduct in the " reign of Queen Anne, he asks, ' Is the difference " to be attributed to any superiority of genius in the " prince whom they served in the latter period of their " lives? Queen Anne's capacity seems to have been " inferior, even to her father's. Did they enjoy in a " greater degree her favour and confidence? The very " reverse is the fact. But in one case they were the " tools of a King plotting against his people, in the " other the minister of a free Government, acting " upon enlarged principles, and with energies which no " state that is not in some degree republican, can " supply.' " Upon this passage Mr. Rose most wisely

observes, " It must be admitted that since the judges  
 " have held their offices during good behaviour, no  
 " such oppression and misery as complained of have  
 " happened." Here Mr. Rose has abandoned his re-  
 publican argument in favour of a more effectual pro-  
 vision for the frequent meeting of Parliament, and leaves  
 his reader to account for the melioration of modern  
 times, solely by the judges holding their offices *quam*  
*diu se bene gesserint*.

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But let us examine how the passage just cited, and  
 the facts there alluded to, support this wild hypothesis.  
 There is a little inaccuracy in the introduction to the  
 quotation, and Mr. Fox's argument loses by the altera-  
 tion; for he does not compare the *culpable* proceedings  
 of Lord Godolphin, and Lord Churchill in the reign  
 of James the Second, with their *meritorious* conduct  
 in the reign of Queen Anne; these expressions are too  
 general, fully to express his meaning. He is con-  
 trasting the meanness of their conduct, and the mea-  
 sures they were engaged in, in the former reign, with  
 their greatness in the latter. " How little," says he,  
 " do they appear in one instance, how great in the  
 " other! And the investigation of the cause to which  
 " this is principally owing will produce a most use-  
 " ful lesson. Is the difference, &c." And the para-  
 graph, after Mr. Roes's citation, goes on " how forcibly  
 " must the contemplation of these men, in such

Oppression un-  
 der good laws,  
 and bad minis-  
 ters

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“ opposite situations, teach persons engaged in a political life, that a free and popular government is desirable not only for the public good, but for their own greatness and consideration, for every object of generous ambition.” Now in the name of wonder what can this observation have to do with judges enjoying their offices *quam diu se bene gesserint* ! Whether these noble Lords, in the characters of ministers of the Crown, appear little or great must depend upon other causes, besides the independence of the judges, and Mr. Fox traces the difference to the alteration, which had taken place in the form of government. As ministers before the Revolution, they were tools of a King, plotting against his people ; but after that event, they were ministers of a free government, acting upon enlarged principles and with encreased energies.

Mr. Fox not  
correctly stated  
as to abuses of  
monarchy.

Rose p. 38.

Ib. p. 40.

We have now to notice some more general remarks, in which Mr. Rose manifests the same misapprehension of the sentiments of Mr. Fox, which we have had occasion to notice, and lament so often before. He assumes, from the passages recently cited, that there existed in the bosom of Mr. Fox, “ a disposition “ to think, that the best laws cannot afford security “ to the people, under a monarchical government.” And concludes this section in full persuasion that one of the leading positions of Mr. Fox is, that “ in a “ monarchy the force of the legislative provisions



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“ against despotism is easily overpowered by the ambition of the monarch, and the subserviency of his ministers.” To this charge, so repeatedly urged, the answer is easy, and conclusive, and Mr. Rose is not justified in making it; for the passages cited, contain no such sentiments as here stated. The time of oppression and misery, which followed Mr. Justice Blackstone’s period of theoretical perfection, is imputed by Mr. Fox, “ to a corrupt and wicked administration, which all the so-much-admired checks of the constitution were not able to prevent,” and then he draws this conclusion. “ How vain then, how idle, how presumptuous is the opinion, that laws can do every thing, and how weak and pernicious the maxim founded upon it, that measures not men are to be attended to.” That laws alone cannot afford security is no where stated to arise from the government being monarchical. Mr. Fox’s observation is a general one applicable to all forms of government; that the best laws cannot afford security, when the execution of them is placed in the hands of corrupt, and wicked men. A political truism, which few will be inclined to dispute.

Mr. Rose insinuates that Mr. Fox had not examined the respective periods, mentioned in this section, with proper attention, and with the impartiality, which it is the essence of historical discussions to preserve, but

Charge of want of attention in Mr. Fox, not founded.

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we shall dismiss the subject, perfectly satisfied that Mr. Fox will not be found deficient in either of these essential requisites; and deeply regretting that Mr. Rose's efforts to be candid, impartial, and accurate should, contrary to his best intentions, have been so uniformly counteracted by the magic spell of party prejudice.

SECTION THE SECOND.



SECTION THE SECOND

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IN the portion of Mr. Fox's Work, noticed in this Section, Mr. Rose has discovered little to blame, and much to approve; and we shall now proceed to examine, whether the few animadversions he has made, are well founded or not. His first observation is, that "The Historical Part" of Mr. Fox's Work, though classed with the prefatory "reflections under the title of Introduction, begins at the "Restoration." To this, it is only necessary to answer, that Mr. Fox himself must be supposed to know best, where he meant his work should begin, and in a private letter he writes, "the death of Charles the Second is the "period, from which I commence my History, though "in my Introduction I take a pretty full view of his "reign."

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Mr. Rose disputes where Mr. Fox's Work begins.

Rose p. 41.

Fox, p. xvii.

Mr. Rose is well satisfied with the historian, till they are arrived at the year 1670, and approves of the

Treachery of Charles to his ministers.  
Rose, p. 41.

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Fox, p. 24.

character given of the ministry, known by the name of the Cabal. But he objects to Mr. Fox's assertion, that "the King kept from them the real state of his connection with France; and from *some of them* at least, the secret of what he was pleased to call his "religion," and to his not deciding whether the motive for this conduct in Charles was his habitual treachery, or an apprehension that his ministers "might demand" for themselves some share of the French money, which "he was unwilling to give them." Mr. Rose, in a note, remarks, that this is an extraordinary alternative, for, from a variety of letters from Barillon to Lewis found in Dalrymple, and one of them printed in the Appendix to the Historical Work, it is evident "that Charles's ministers were fully apprized of his money transactions "with Lewis." Mr. Rose is guilty here of a little anacronism, for Barillon did not come over to England, as ambassador, till 1677, and the letters, here alluded to, were written after that period, and of course long after the Cabal had been dismissed. It remains for Mr. Rose to shew how Mr. Fox's observations upon the ministers of 1670 can be affected by letters, written concerning others who were in power, seven years at least afterwards.

Rose, p. 42.

But to return, Mr. Rose says, first, that, for this charge of treachery, on the part of the King, there is no authority quoted, and there is no probability of its

being well founded. As to authorities, we learn from a Letter in the Preface, that Mr. Fox regarded his Introduction, including the period down to the death of Charles the Second, "rather as a discussion, alluding "to known facts, than a minute inquiry into disputed "points," and he might think himself justified in assuming this concealment to be a known fact, after both Dalrymple, and Macpherson had produced abundant authorities to prove it.

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Fox, xv.

That the charge is improbable, becomes next the task of Mr. Rose to prove, and to do this, he has recourse to that same inconsistent course of argument, which he adopts upon many other occasions. The clause in the treaty itself, stipulating that it should be kept secret until a fit time should occur to put it into execution, does not, as he observes, prove that it was to be concealed from any of Charles's confidential servants, for though all the ministers had been informed of its contents, that clause might properly have continued to make a part. Its object was to secure the concealment of the treaty from others, not from those, who were in the confidence of the King, or already acquainted with it.

That the King did not conceal the secret of his religion from *some of his ministers at least*, is attempted to be proved by Mr. Rose in this curious manner. He cites, but for the purpose only of combating it, the assertion of

Rose, p. 42.



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Dalrymple, "that the treaty was unknown to the protestant ministers;" this, he says, is not correct, because Lord Arlington was one of the English commissioners, who negotiated and signed it, and he was a professed Protestant, though a concealed Catholic. Dalrymple was well aware of the religious faith of Arlington, when he made the above assertion; and because he was a *concealed Catholic*, and as such trusted with the secret, classed him with the avowed professors of his religion, and excluded him from the number of Protestant ministers.

Rose, p. 43.

"To one of his ministers therefore," adds Mr. Rose, triumphantly, "the whole of this treaty was perfectly well known." We will go further, and admit that it was known to two of them, Arlington a concealed, and Clifford an avowed Catholic, and their names, with those of Arundel, and Sir Robert Bellings, also Catholics, are signed as commissioners to the abstract of the treaty, which Mr. Rose himself has published. The reference he makes to the treaty, he says, "establishes beyond all controversy, that Mr. Fox's charge against the King, and his ministers, of mutual treachery towards each other, is not founded." Here Mr. Rose does not correctly state the before mentioned passage in Mr. Fox's book: for it does not contain a charge of mutual treachery, but of treachery, only on the part of the King, towards his ministers, in concealing, from some of them, the secret of his religion.

Ib. p. 51.

Mr. Rose, not very consistently, admits that the Duke of Buckingham was not in the secret; but forgetful of his prudent engagement never to contend with Mr. Fox in argument, when he agreed with him in fact, will not allow that he was excluded for either of the reasons suggested, and informs us that, in a letter from Charles to the Duchess of Orleans, his timidity was assigned as a reason; and in one to Lewis, that he could not keep a secret. The first of these reasons the reader may have some difficulty to discover in the letter alluded to, and the validity of the second it is not material at present to discuss.

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Rose Int. xiv.

The reader may now, upon the abstract of the treaty produced by Mr. Rose, and the admissions made by him, judge for himself whether Mr. Fox's assertion is not substantially verified. It appears that to Clifford, and Arlington, the one an avowed, the other a concealed Catholic, the full extent of the Treaty was known, for they negotiated it; and that it was kept from the knowledge of Buckingham, a Protestant. But Mr. Rose has not attempted to prove, that either Lauderdale, or Ashley, who were also members of the Cabal, and both Protestants, were ever consulted. On the contrary, in Colbert's letter of the 25th of August, 1670, cited by Mr. Rose, it is stated, that Charles had proposed the *Traité Simulé*, which should be a repetition of the former one, in all things, except the article relative to the King's declaring himself a Catholic; and

Dal. Mem. ii.  
P. 83.  
Rose, p. 48.

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that *the Protestant ministers*, Buckingham, Ashley Cooper, and Lauderdale should be brought to be parties to it. Buckingham went over to France to negotiate it there, and Lauderdale, Ashley Cooper, and the Duke of York, were appointed commissioners to conduct it here, with M. Colbert the French Ambassador. These latter signed the Treaty in June 1671, without there being, as Dalrymple observes, the least reason to believe the Protestant commissioners knew of the former Treaty made by the Popish ones. The bare execution of the *Traité Simulé*, with the knowledge, and under the direction of the Protestant ministers, is a pretty strong proof of their ignorance of a Treaty, concerning most of the subjects mentioned in it, having been executed only the year before, and remaining then in force.

Mr. Rose only gives an abstract of the Treaty of 1670. Rose, p. 44.

Before the Treaty of 1670 is dismissed from notice, it may be proper to mention, that Mr. Rose describes it, as “an object of high importance,” which has not been seen by any of our historians, nor its whole contents hitherto published; he has, therefore, favoured the public with a very correct abstract of it, except the second article, concerning the change of the religion of Charles, which is copied, *verbatim*. A complete copy is, according to Mr. Rose, still a *desideratum*, and as he charges Mr. Fox with culpable negligence for not applying for information in various quarters,



it may be asked, why Mr. Rose should content himself with an abstract only of this precious paper? he had seen the original in 1781, and therefore knew of its existence; he was acquainted with the noble Lord, who not only possessed it, but condescended with his own hand to make the abstract; Why then did he not request a copy? He cannot be charged here, as he charges Mr. Fox, with not seeking out materials, but he appears not to have taken the trouble to possess himself of such, as he had discovered, and lay within his grasp.

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Mr. Rose then concurs with Mr. Fox, in the expediency of the Bill of Exclusion, but should find it difficult to agree with him in his reasoning upon it. However, as no specific objections are stated, it is not necessary to enter into the argument.

Rose, p. 58.

The following passage in Mr. Fox's book has been made the subject of animadversion, "Clarendon is said to have been privy to the King's receiving money from Lewis the Fourteenth, but *what proofs exist of the charge*, (for a very heavy charge it is,) *I know not*." Mr. Rose speaking of Charles's obtaining money from France, states it to have arisen from the excess of his private expenses, and a desire to have a fund for corrupt purposes at home, and alluding to this passage in the Historical Work, says, "the practice began very

Clarendon not  
privy to receiving money from  
France.

Rose, p. 63.

Ibid.

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Rose p. 141, 142

soon after the Restoration, under the management of the Earl of Clarendon, *whom Mr. Fox considers as "quite innocent of it."* And supposes if he had seen the reference in Sir John Dalrymple's book to the Clarendon Papers, he could not have formed that opinion, those papers being ready of access. And in a note, in another place, he returns to the charge, and affects again to doubt, whether Mr. Fox ever read the letters published by Sir John Dalrymple, for if he had he must have "been aware of that author's reference to "the Clarendon State Papers to support a fact, which "Mr. Fox considers, as utterly unsupported." The truth is, that Mr. Rose is guilty of an unintentional, but gross perversion of the words of Mr. Fox, as the reader will see by comparing the passages above cited. Mr. Fox says, he knows not what are the proofs; and this ignorance is tortured, first into a belief of the innocence of the party, and then into a declaration that there exists no evidence of the charge.

The charge against Mr. Fox consists of two parts, 1st. That he has not examined proofs, to which he might easily have had access. 2dly. That he has formed an erroneous opinion of Clarendon's innocence. To the first the answer is easy and decisive. It has been observed before, that Mr. Fox's History does not begin till the reign of James the Second, and that his introductory chapter was intended to be, rather an allusion

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to known facts, than a minute inquiry into disputed points. The guilt of Clarendon, he was aware, was not a known fact, but to be considered as a point, which might be disputed. He therefore, according to the plan he had laid down for himself, only mentions the imputation, but avoids entering into a discussion of the evidence, by which it was supposed to be supported. In doing this he delivers no opinion whatever, and as Dalrymple had originally, if not solely, made the charge, it is scarcely to be supposed that he could, as Mr. Rose observes, have been ignorant of the reference alluded to.

To the second, the answer is not less conclusive; the Clarendon Papers, Mr. Rose says, "clearly prove" that the Chancellor *and his son* were the active and "sole agents in money transactions with the French minister here, at this early period." At the time when Dalrymple wrote, these papers had not been published, and he might not have seen them himself, and probably cited them from the information of others. But Mr. Rose has no such excuse, the papers have been published many years, Mr. Rose has read them, and in his Observations not only quotes the particular letters, but copies the passages, which he conceives to prove the proposition he has laid down, as well as that of Dalrymple, who says, "In an evil hour" for Charles the Second, Clarendon had taught him in

Rose, p. 53.

Dal. Mem. i. p.  
31.



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“ the very first years of his reign to receive money  
 “ from France, unknown to his people.”

Clar. iii. St.  
 Pap. Supplem.  
 p. 1.

ib. p. iv,

ib.

ib. p. xi.

The substance of the State Papers may be stated in a few words. In March, 1661, Bastide, the French minister, in an interview with Lord Clarendon, offered him by virtue of orders from his Court, as a present for himself, the sum of 10,000*l*. On the 17th April, in a letter from Bastide was inclosed a slip of paper, offering that or a larger sum, beginning in this manner: “ If your Lordship hath occasion, for the furthering “ or promoting the King of England’s, and your own “ interest, at the next Parliament, or for any other “ end, &c.” On the next day, Clarendon, in a letter to Bastide in consequence of that inclosure, stated that the temper of the Parliament was expected to be friendly, but the asking of money was intended to be deferred, till some other things of greater importance had been obtained, and in consequence the King might be in some difficulty, and then asked, “ do you believe if the “ King desires it, that the King of France will lend him “ 50,000 for ten or twelve months, in which time it shall “ be punctually repaid,” and if such a proposition was unseasonable he undertook to prevent its being made. After this, Clarendon endeavoured to procure from France some pecuniary assistance for the war of Portugal, which he says Charles was unable alone to defray. In answer, 9th August, 1661, Bastide says “ the King of England may

“ he sure of 1,800,000 French livres or 2,000,000 for  
 “ these two or three years,” and in that month the latter  
 sum had been agreed upon. No part of this sum was  
 ever paid, and the affairs of Portugal, and the King’s  
 necessities becoming urgent, Clarendon negotiated the  
 sale of Dunkirk to France, which there is some reason  
 to suspect was a measure he neither proposed nor approved of. However, as minister, he conducted the negotiation, and in September, 1662, it was settled, that Charles was to receive 5,000,000 of livres. It is to be observed here, that no son of the Earl of Clarendon is mentioned to have taken any part in these negotiations,\* and therefore Mr. Rose is mistaken when he asserts, that “ the Chancellor, *and his son* ” were agents in them. Whatever praise, or blame is connected with them belongs exclusively to Clarendon himself.

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lb. p. xii.

lb. p. xiv.

lb. p. xxiii.  
xxiv.

The first negotiation appears to have been for a loan of 50,000l.; the second for assistance in the war in favour of Portugal, the nature of which is not particularly explained, but seems to have been for a subsidy, rather than a loan; and, the third, for the sale of Dunkirk. The plan of this work does not make it requisite to enter here into a defence of the conduct of the Earl of Clarendon, in all or any of these transactions; but it may be proper to add a few remarks in support of an observation made by Mr. Fox, that his adminis-

\* His eldest Son was trusted with the secret, and wrote a letter in cipher for his father. Clar. St. Pap. Supp. iii. p. ii.

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tration was less exceptionable by far, than any of those, which succeeded it. There is no evidence that any money was received by Clarendon, or through any measures advised by him, till the price of Dunkirk was paid. Nor in the application he originally made, or the negotiations founded upon it, did he condescend to degrade himself, his King, or his country, by making any concessions, or propositions inconsistent with the honour of any of them: Louis the Fourteenth was not to direct, or be admitted to any participation in the internal government, or domestic concerns of England; Charles was not to become the pensioner of a foreign power. The Earl of Clarendon, from any thing appearing in the State Papers, would have been shocked, and in as strong terms, as Mr. Rose has used, might, if not restrained by a consideration of respect for monarchy, have expressed his detestation of the "debasing conduct," of the "profligacy of the monarch," submitting to such base practices: and his deep indignation at the "infamy" attending them.—To the charge of having negotiated, first a loan, and then a subsidy for his Sovereign, and when he failed in both, of consenting to and negotiating the sale of Dunkirk to relieve him from embarrassment, Clarendon must plead guilty; but proofs are yet wanting, that he was the agent in any money transactions, which were inconsistent with the national honour, unless the sale of Dunkirk, to which resort was had at last, may be



deemed one. His refusal of the proffered bribe of France forms a pleasing contrast with the infamous conduct of some subsequent ministers, who made no scruple to receive money from that power.

The cautious and just manner, in which Mr. Fox alludes to the report of Clarendon's having been privy to the King's receiving money from Lewis, does equal credit to his candour, and sagacity. If the political atmosphere, to which Mr. Rose ascribes such powerful effects, and by which he is so often influenced himself, had really infected Mr. Fox's ingenuous mind, would an extraordinary, and in Mr. Rose's judgment an over scrupulous tenderness for Clarendon's reputation have been one of the symptoms of such contagion? It would have been rather an act of justice than of candour, if Mr. Rose, when he noticed Mr. Fox's doubt of Clarendon's guilt, had stated that the testimony of such a writer, biassed, as he has insinuated he was, afforded a strong presumption of the innocence of the party; or, if that innocence were questionable, as Mr. Rose seems to imagine, that the easy belief of Mr. Fox in the truth of it was incontrovertible evidence of the candour, with which he examined the character of those persons, from whose political principles he most widely differed, and of whose political conduct he could not approve.

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We shall not attend Mr. Rose in his inquiry into the extent, to which the corrupt intercourse of the King, and his ministers with France was carried after Clarendon's disgrace, because he has been anticipated by Dalrymple, whose argument, and arrangement of proofs Mr. Rose has contented himself with following, and adopting. But, as the Observer and Historian are at last agreed, we shall pass over ten pages, chiefly occupied with extracts from Correspondence, and congratulate the reader upon his having arrived at the end of the section. Our congratulations may also be extended to Mr. Rose, upon there being "so little ground for  
" any difference of opinion, as to render it unnecessary  
" to call the public attention to" any thing, said by Mr. Fox, "of the arbitrary and oppressive measures," during the remainder of the reign of Charles the Second. Indeed they could scarcely be described by any person in expressions more strong, or less respectful to Kings, than those to which we have before made allusion, and in which Mr. Rose has thought fit to declare his abhorrence and indignation of them.

Rosc, p. 67.

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THE END OF THE WORLD

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### SECTION THE THIRD.

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AFTER having occupied so many pages in the consideration, and refutation of Objections in general of a nature, so trivial, as hardly to have been deserving of notice, the reader may not be displeased to be arrived at the Commencement of Mr. Fox's History, and the accession of James the Second. Here, for the first time, we find Mr. Rose disputing upon a question of great general importance, and conducting the combat with more of impartiality, and candour, than he has hitherto exhibited.

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Motive for  
James's con-  
nection with  
France, to be  
independent of  
Parliaments.

The proposition, to which he objects is, that, in James the immediate specific motive to a connection with France, "was the same as that of his brother,

Fox, p. 102.

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“ the desire of rendering himself independent of Parliament, and absolute, not that of establishing popery in England, which was considered as a more remote contingency.”

Rose p. 74.

Mr. Rose begins by making some observations to vindicate the two brothers from having had the desire of rendering themselves independent of Parliament. The substance of his argument is, that it was more likely to have been the intention of James, to “ make Parliaments subservient to him, than to attempt to “ govern without them.” It may be remarked that Mr. Fox’s observation was not that these brothers attempted to govern altogether without Parliaments, but that they had the desire to render themselves independent of them, and absolute: and Mr. Rose admits that for nearly four years, Charles, at the conclusion of his life, manifested no disposition to call one, even when his necessities must have compelled him, if he had lived only a few months longer. Charles, however, in his applications for money frequently alludes to the possible, and even probable, necessity of calling a Parliament, notwithstanding any aids he might receive from France: and the very comprehensive logic of Mr. Rose collects from this circumstance, not only that Charles, but James also, intended to make Parliaments subservient to him, rather than to govern altogether without them. It may, in the first place, be

observed, that Mr. Rose's reasoning, if it was as satisfactory and conclusive, as it is loose, and unfounded, would admit the substance of Mr. Fox's proposition, and be a confirmation of, rather than an answer to the statement it is intended to confute. A King, who makes Parliaments subservient to his will, renders himself independent of them. He may, for the sake of state, of convenience, or of hypocrisy, chuse to preserve the appearance of a Parliament, but the moment he becomes its master, and its proceedings are governed by his pleasure, he is independent of it. Mr. Rose, therefore seems not to have attended to the signification of the words used by Mr. Fox, when he construes, "the desire of rendering himself independent of Parliament," to mean, that he desired to rule entirely without one. But, if we concede to him that these expressions are synonymous, and that the desire of the two brothers, mentioned by Mr. Fox, was, in substance, that they might rule without a Parliament, we may express our surprise, that Mr. Rose should feel any objection to the proposition so understood; for referring to page 62, of the Observations, the reader will find him adopting the sentiment in the fullest terms. "We shall reserve," says he, "for separate consideration the advances, made *for enabling the King to govern without Parliaments, as relating equally to the reign of James the Second.*" Between Mr. Rose when delivering



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this opinion, and Mr. Fox, as he understands him, there is no ground for dispute. Why he expressed a different opinion afterwards, unless for the double pleasure of contradicting Mr. Fox, and himself, it may not be easy to explain.

Mr. Rose is pleased to say, that the assertion of Mr. Fox is "contrary to the clearest evidence before us," and as far as it is possible to collect his meaning, it seems that the clear evidence to which he alludes, consists of the actual necessities of Charles, and his frequent expressions of apprehension, that they would compel him to resort to a Parliament. Does Mr. Rose then, mean to say that a man's apprehension of being obliged to do a thing is a clearer proof of his wish to do it, than his wilful and voluntary omission of it, when in his power, is evidence of his design to avoid it? Charles for four years persisted in his resolution not to call a Parliament. He might have been compelled to call one, and he might have foreseen that he could not avoid it, but the very manner, in which he speaks of the possibility of that necessity, evinces his averseness to resort to the measure, and the fact of no Parliament being assembled for so long a time, affords a presumption, that he had taken effectual precautions for avoiding the occurrence of that necessity. We forbear to pursue the argument further at present, it will be resumed hereafter.

Mr. Rose next proceeds, in opposition to Mr. Fox, to lay down a proposition, which he says is clear, that James's conduct after he came to the Crown, shews in the exercise of that power, which he was so eager to obtain "the wish nearest his heart, was the establishment of the Catholic religion in this country." He begins his proofs by contrasting the conduct of the two brothers during the reign of Charles; he shews that Charles was personally indifferent upon the subject, and aware of the danger of the attempt; that he entertained great apprehensions of the consequences of his brother's conversion, and was most anxiously desirous that he should take the Protestant Tests, and return to the Established Church. These facts prove that Charles had nothing of the zeal of a Martyr about him, and preferred his own ease to any other consideration; and that the Duke of York possessed a greater violence of temper, a prouder spirit, and a more obstinate disposition; but we are yet to learn, whether they were not both principally actuated by the same object, the love of power.

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The establishment of the Catholic Religion, not the first wish of James.  
Rose, p. 74.

In discussing this subject the author is in some respect an impartial inquirer. When Mr. Fox was writing this part of his work, he did me the honour, occasionally to mention in conversation, the manner, in which particular parts of our history had impressed his mind. And upon the point, now in dispute I ventured to differ

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from him, conceiving with historians of all parties, that the principal motive, which actuated James's public conduct, was the establishment of the Catholic religion in his dominions, and that he was to be considered, rather as a bigot, than a tyrant; we conversed, and corresponded upon the subject. But I am not ashamed to avow my having now become a convert to his opinion, and my conviction that in the ambition, not the bigotry of James; in secular, not religious objects must be sought the master spring of his conduct, immediately after he succeeded to the throne. The correspondence of Barrillon, and his master, published in the Appendix to the Historical Work, surprised me, for I had expected it would have furnished the most ample confirmation of the opinion so generally entertained, but on the contrary, an examination of the documents at first gave me reason to doubt, whether it was well founded, and at last compelled me to abandon it altogether. That the fair result of the correspondence, has not been mistaken, I am satisfied, because Mr. Rose's extracts, which will now be discussed in detail, and may be presumed to contain the strongest passages in favour of his hypothesis, form a compact and uniform body of evidence to overthrow it.

This is certainly a question of great importance for the true understanding of "the most interesting period "of our history," Mr. Rose has treated it, as a novelty,



in contradiction to his assertion, that Mr. Fox had not brought into view one new historical fact of any importance, or thrown an additional gleam of light on any constitutional point whatever. The remainder of this section will be occupied with the examination of the extracts and arguments, comprising his third section, reserving to a future part of this work a more general and enlarged discussion of the subject.

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Mr. Rose, as has been already mentioned, begins his observations on the reign of James, in great apparent good humour with Mr. Fox, and concurs with him afterwards in what has never been disputed; that James's accession to the Crown was attended with a degree of popularity, which surprised him, as much as it has puzzled historians to account for. He expected resistance; but met none; he laid his account for sedition and tumult, but was received not only with respect, but acclamations; and had he been possessed of a more benevolent heart, or had he not imbibed prejudices, which prevented him from taking advantage of his situation; might in all probability have trampled upon the liberties of his people, without diminishing the stability, or power of the throne. "What a prospect of success," exclaims Mr. Rose, "was here opened to him of establishing a power great as he could wish, but with power alone he could

James's accession popular.

Rose, p. 80.

Rose, p. 82.

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“ not be content, except that power should enable  
 “ him to establish the Catholic worship throughout  
 “ his dominions.”

A complete to-  
 leration of Ca-  
 tholics only in  
 contemplation  
 of James.  
 Rose, p. 83.

Ib. p. 84.

Mr. Rose acknowledges that James's conduct became more bold, as he felt his power increase, and observes that the Parliament having not shewn much concern, or jealousy at the King's having gone publicly to mass, or at the disclosure of his brother having died a Catholic, “ he thought he might take measures of “ a much more decisive nature.” And it is upon contemplation of these measures, and the evidence from the French correspondence, that Mr. Rose finds it impossible to agree with Mr. Fox, and takes upon himself to prove that the earliest intention of James, “ after his accession, was to go much further than “ to obtain merely a toleration for his own religion.”

Fox, p. 78.

It may be suspected that Mr. Rose has misunderstood the meaning of the expression, used by Mr. Fox, who says, “ it is by no means certain that he “ had yet thought of obtaining for it” (i. e. the Catholic religion) “ any thing more than a complete “ toleration.” For Mr. Rose drops the word *complete* when he states the proposition he means to disprove. Mr. Fox is speaking of a toleration of religious opinions, unattended with any civil tests, or disqualifications. Mr. Rose may have in contemplation a toleration of

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a more confined nature, and much of his argument will, then, be irrelevant to the subject in dispute. This observation applies most strongly to the first proof produced, namely, the determination of James to dispense with the penal laws, and give commissions in the army to Catholic officers; for the suspension of those laws was necessary in order to render the *toleration* of Catholics complete; and therefore without militating against the opinion of Mr. Fox, it may be conceded, that this was one of the objects of James at his accession to the throne. This renders it unnecessary to examine the acts in England, or Scotland, enumerated by Mr. Rose; their tendency being to shew, that James was struggling only for a complete toleration for the Catholics, and that Mr. Fox is perfectly correct in what he has stated.

Acts of James  
in England and  
Scotland.

With respect to the transactions of the King in Ireland, which took place before the Revolution, the same answer may be given; for not one of those manifested a will to change the established religion of the country. Mr. Rose seems not to be aware of this distinction, or not to have recollected that the intention of James, immediately after his accession, cannot be inferred, from measures, to which he fruitlessly had recourse after his abdication, to extricate himself from difficulties, and replace himself upon the

In Ireland.



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throne. The period, to which Mr. Fox's observation more particularly alludes, is between James's accession, and the execution of Monmouth, after which, intoxicated with success, it may be admitted, that he extended his views to objects, which he had not ventured to contemplate before.

Barillon's correspondence proves James had only in view a complete toleration.

Rose, p. 98.

With these short remarks, we shall dismiss the consideration of the conduct of the King in England, Scotland, and Ireland, and the numerous facts detailed by Mr. Rose, upon which, as he says, "The proof that James's principal object was the firm establishment of his own religion throughout his dominions, might safely be rested," and proceed to the correspondence of Barillon, upon which it seems both the contending parties principally rely. Mr. Fox however only refers to it generally; Mr. Rose cites passages out of several letters, which he supposes to contradict Mr. Fox's general inference, and it will, therefore, be most convenient to examine the import of Mr. Rose's quotations, presuming that if they fail to shew its fallacy, Mr. Fox's hypothesis is well founded. But it may be necessary first to observe, that Mr. Rose seems to be misled in the judgment, he has formed of the effect of this correspondence, by his not having attended to the meaning of the French word "établissement." A system of religion is denominated an "establishment," or "an established

“ church,” when it is selected by the governing power, declared to be the religion of the state, and endowed with exclusive privileges, and revenues, but a toleration, also may be said to be established when it is secured by the legal exercise of the King’s prerogative, or an act of the legislative power. And in the course of our examination of the correspondence, it will be apparent that the establishment alluded to on all sides, with reference to the Catholic religion, was not the substitution of it for the national church, but a complete toleration for its professors.\*

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The first letter, of the 19th February, 1685, cited by Mr. Rose, would be alone decisive. It was written immediately after Barillon’s first interview with James upon the death of his brother, and James is stated to have said, that “ he knew well that he should never “ be in safety, unless *liberty of conscience* for them

Rose, p. 98.

\* In this manner the French verb “ *etablir*” was used in the articles agreed upon at Flex in 1580, between the Duke of Anjou, and the King of Navarre, and deputies of the reformed religion. By the 6th article, the selection of a place, “ *pour y etablir l’exercise de leur dite religion,*” was submitted under certain conditions to the King. And section the ninth of the Edict of Nantes begins thus. “ *Nous permettons aussi a ceux de la dite religion, faire “ et continuer l’exercise d’icelles en toutes les villes et lieux de notre “ obeissance, ou il etoit par eux etabli, & fait publiquement, par “ plusieurs et diverses fois en l’annee,*” &c.

Histoire de  
l’edit de Nantes,  
Vol. I. App. p.  
55.

Ib. p. 66.

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" should be fully established in England, that it was  
 " to that he meant wholly to apply himself, as soon  
 " as he should see a possibility." James had not, at  
 this time, courage to pledge himself to obtain, or even  
 to attempt to obtain liberty of conscience for the Ca-  
 tholics, he doubted the possibility of compassing it, but  
 he was perfectly assured that it was a step necessary  
 for his own safety. Does he feel the love of the Ca-  
 tholic religion as the first motive of action? as the  
 governing principle of his mind? No such thing, his  
 own safety was next his heart, and a toleration of  
 the Catholics so far as to allow them the free ex-  
 ercise of their religion, only an expedient for secur-  
 ing it.

Rose, p. 99.

Fox, App. xliiv.

In a letter, (from which Mr. Rose has made two  
 short extracts), dated 5th March, a few days after  
 James had gone for the first time publicly to mass,  
 Barillon says, that some persons were so discontented  
 with the King's having taken that step, as to have  
 entertained great suspicions of what was to happen in  
 future, and feared that a design was formed to ruin  
 the Protestant religion, and tolerate only the Catholic;  
 but this he treats as a project so difficult in the execu-  
 tion, not to say impossible, that sensible people have  
 no apprehensions of it. Having dismissed that sup-  
 position as too wild, he describes the King and his  
 ministers as exerting themselves to convince reasonable



people, that his intention was to govern according to the laws, and *to attempt nothing against the safety of the Protestant religion*, provided Parliament would grant him the revenue absolutely necessary to carry on the Government, and it was supposed that the Parliament would consent that all persecution against Catholics should cease, so that they might live in quiet. He afterwards writes, that it is almost agreed by both parties, that the penal laws against Catholics shall be abolished, and none shall be prosecuted for exercising their religion in their own houses; and there was even no doubt, but the Catholic Lords would be allowed to sit in Parliament. Barillon having thus stated a limited toleration to be the object of James, observes (but Mr. Rose has omitted the paragraph) that the great difficulty was as to military and civil officers, but he hoped some expedient might be found, and mentions one, which had been already suggested, that the Catholics might be capable of holding some offices in the Household of the King, provided neither jurisdiction, nor command was annexed to them. At this time, then, we are assured, by the papers produced by Mr. Rose, that a limited toleration was hoped for, and a complete one in contemplation, but the Protestant Church was to remain, undisturbed, the established religion of the country. From the parts of the foregoing letters, cited by Mr. Rose, he however draws a different conclusion, and considers them, as proofs that the esta-

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lishment of the Catholic religion, on the ruins of the Church of England, was the object of the King.

Rose, p. 100.

Mr. Rose then quotes passages from a variety of letters, as "the authority of Lewis himself, for his "having explained that it was for *the establishment of the Catholic religion* alone, \* that he gave the largest "sums to James." What Mr. Rose means by "the "largest sums" paid by Lewis to James baffles all conjecture, for including the arrears of the ancient subsidies due to Charles, Barillon never pretended to have paid him more than 800,000 livres. The first letter quoted is dated 24th April, 1685, but unfortunately the words of the French King are, "*the establishment of*

\* It is not clear that Mr. Rose is justified by the text of the letter quoted, in using this word and making Lewis confine his intended present to the purpose of religion only; for Lewis directs Barillon not to part with the balance of 1,600,000 of livres in his hands, except upon two emergencies, in case the King should be obliged to (*casser*) to break up the Parliament, then "*ou quil trouve d'ailleurs de si fortes oppositions a l'establissement d'un libre exercice de la religion Catholique, qu'il soit obligé d'employer ses armes contre ses propres sujets.*" In either one or the other of the cases specified, Barillon would have had power to lay out the money, but it was not restricted solely to the latter, for in case no attempts had been made in favour of the Catholic religion, and the Parliament had been refractory about promoting supplies, or any other thing not connected with religion, the money might have been disbursed. The word "*d'ailleurs,*" perhaps, is a material word, but Mr. Rose has omitted it entirely in his translation.

"*a free exercise of the Catholic religion*" that is of a limited toleration for it. Here it is evident, as suggested before, that Mr. Rose from his ignorance of the French language, has not understood the true import of these expressions, for he has translated the passage in a note verbally right, but given its substance in the text wrong; a nearly similar expression is found in an extract, from a subsequent letter of Barillon, dated the 30th of April, in which he mentions "*the establishment of a free exercise in favour of the Catholic religion.*" These expressions evidently allude to a toleration to be sanctioned by the Parliament, which was then sitting, and from which Barillon in his before mentioned letter of the 5th March, had encouraged Lewis to hope it might be obtained, at least under some restrictions.

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Rose, p. 101.

It is observable, that Barillon, in the last cited letter (of the 30th April), when pressing Lewis to permit him to advance money to James, undertakes that it shall have a good effect, and be a decisive stroke "for what your Majesty has besides \* at heart, that is to say, for the establishment of *a free exercise*, in

Rose, p. 101.

\* Mr. Rose renders "*d'avantage à cœur*," by the words "most at heart," but it may be doubted whether the word "besides," as in the text, is not the right translation, at all events Mr. Rose's translation, is not correct, and the word "*more*" should be substituted for the word "most."



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“favour of the Catholic religion.” In this letter, Barillon seems to have been perfectly acquainted with the secret views of his master, and from this period, the Catholic religion becomes a more prominent feature in the correspondence, and its toleration an understood object of all parties.

Rose, p. 101.

On the 9th of May, Lewis, as quoted by Mr. Rose, profiting by the hints of Barillon, sets up his zeal for the increase of their religion, as “the principal, or  
“more properly speaking *the sole and only* motive,  
“which obliges him with so much promptitude to  
“remit so large a sum of money as that of two millions to assist the King of England with, in his most  
“pressing wants;” and afterwards he writes, “I have  
“so good an opinion of the firmness of the King of  
“England in the profession he makes of the Catholic  
“religion, as to be fully persuaded he will employ  
“all his authority to establish *the free exercise* of it.” He seems however to doubt of the warmth of James’s zeal when he adds “without its being necessary to  
“excite him to it\*,” by a premature distribution of

\* Mr. Rose’s translation of the words “de l’y exciter,” is certainly incorrect, he renders them by the words “to have recourse to,” by which the sense of the passage is materially changed, and the doubt insinuated of James not being sufficiently warm in the cause of religion entirely lost.

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“ money which ought not to be employed if the Parliament grants the same revenue, as the King of England enjoyed, and consents also to the Establishment of the *free exercise* of our religion;” in a subsequent part of the letter, Lewis speaks in more general terms of the obstacles, which may occur to “ the establishment of the Catholic religion,” but it cannot be necessary to enter into arguments to prove, that the last expression must be understood, so as to render it consistent with the former part of the same letter, and to signify the establishment of the *free exercise* only of that religion.

On the 15th of June, the Money Bill having passed on the 30th of May preceding, Lewis is still more explicit, and Mr. Rose probably would not have cited the letter, if he had been aware of its contents; after stating a variety of reasons to excuse himself from advancing to James more money than the arrears of former subsidies, Lewis adds, “ *there now remains only, as well for my satisfaction as for his, to obtain the repeal of the penal laws in favour of the Catholics, and the free exercise of our religion in all his states,*” which he reminds Barillon was the principal motive, which had induced him to remit so expeditiously such considerable sums. And as his Parliament seemed so well disposed, as through affection or fear to refuse James nothing, he wished him to profit by it, and obtain

Rosc, p. 104.  
Fox App. p.  
xcix.

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what "*he desires in favour of our religion*:" this is speaking plainly, and it is surprising that Mr. Rose should mistake the meaning of this Letter, or that if he understood it, he could have cited it to prove, that it was for the *Establishment of the Catholic religion* alone, that Lewis gave the largest sums to James. What James desired in favour of the Catholic religion must necessarily relate to what had been mentioned in a former part of the Letter, as the *only* thing remaining for the satisfaction of both monarchs, that is to say, a toleration for the Catholics, and that, the penal laws being repealed, they should have the free exercise of their religion.

Rose, p. 106:

In a letter, dated on the 13th of July, cited by Mr. Rose, Lewis pleased with the ample grants of the Parliament, and assuming that James will find no obstacle whatever, to the "re-establishment of the Catholic religion when he shall be willing to undertake it, after he shall have completely dissipated the few remaining of those who have revolted," writes "I have thought proper to have returned the funds, which I have caused to be remitted to you to support, in case of need, the designs which this prince might be willing to form in favour of our religion." It has been observed before that, in the correspondence of Barillon, the expression, "the Catholic religion" is used occasionally to signify the



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bare "exercise" of it, and that a toleration sanctioned by law was the only establishment alluded to. The word "re-establishment" must therefore be used in the same manner, not meaning the restoration of the Catholic religion to all the exclusive privileges, and power, of an established church, but to the public exercise of its worship only. If it were possible for a doubt to remain as to the meaning of this expression, a letter of Lewis dated generally, August, 1685, would effectually remove it. The letter is written in high spirits, upon his having received intelligence of Monmouth's execution, and he has these words, "It will be easy to the King of England, and as useful for the security of his reign, as for the repose of his conscience to re-establish\* *the exercise* of the Catho-

Fox, App. p.  
cxvi.

\* This application of the word "retablir" was well known in France at the time when Barillon wrote, being found in most of the edicts of pacification with the Hugonots; thus in one of Charles the Ninth, made in the year 1570, the third section runs thus:—  
 "Ordonnons que la religion Catholique & Romaine sera remise, & retablee en tous les lieux," &c. "ou l'exercice d'icelle a été intermis, pour y être librement & paisiblement exercé sans aucun trouble ou empêchement sur les peines sus-dites." This provision is confirmed in the edicts of Henry the Third in 1577, and in the articles agreed upon in 1580, by the Duke of Anjou for the King, and the King of Navarre, assisted by deputies of the reformed religion, to be laid before the King for his approbation. In the edict of Nantes, in 1598, complaints are mentioned, "de ce que, l'exercice de la religion Catholique n'étoit pas universel-

Histoire de  
l'édit de Nantes,  
Vol. I. App. p.  
9.

Ib. p. 19.

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Rose, p. 107.

“ lic religion,\* which will strongly engage all those  
 “ who make profession of it in his kingdom, to serve  
 “ him more faithfully, and more submissively than  
 “ any other of his subjects.”

In a letter of July 16th† Barillon describes the great dissatisfaction of the English King, and his ministers at the supplies, which had been promised at the commencement of his reign, being withheld in the pressing emergency, in which James was then placed. Sunderland is made to say, that the King his master had nothing so much at heart as to establish the Catholic religion; nor according to good sense and right reason could he have any other object, because without it he could never be in security, but always exposed to the indiscreet zeal of those, who should inflame the people against the Catholic religion, *so long as it should not be more fully established*. The French expression is, “ tant qu’elle ne sera pas plus pleinement etabli.” Mr. Rose has translated “ till it shall be completely established,” and marked it with Italics, as being a material passage

Histoire de  
 l’edit de Nantes  
 Vol. I. App. p.  
 62.  
 ib. p. 66.

“ lement retabli, comme il est porté par les edits cy devant faits,” and in the tenth section occur these words, “ pourra semblablement le dit exercice etre etabli, & retabli en toutes les villes, & places ou il a ete etabli, ou du etre,” &c.

\* The words are, “ il sera facile au Roi d’Angleterre & aussi utile a la surete de son regne qu’au repos de son conscience de retablir l’exercice de la religion Catholique,” &c.

† In Mr. Rose’s work the 8th is inserted instead of the 16th, by an error, it may be presumed, of the press.

to support his hypothesis. We might attribute to him an improper bias in making this incorrect translation, with much greater appearance of reason, than he has charged Mr. Fox with acting under one, when, he is supposed to have mistranslated a doubtful passage, so as to weaken the argument it was intended to support. In the present instance, the omission of the word "more" changes the sense of the passage; for a religion, which is only partially tolerated, may be more fully tolerated, that is some more restraints may be removed, or privileges granted, without the toleration being complete. But if a religion be established, its exclusive rights leave its friends nothing further to wish for, in its favour. Sunderland is stated to have urged the French minister to explain himself, and make it known that the King his master would honestly assist the King of England in "establishing the Catholic religion firmly here." These words, which occur for the second time in this letter, must signify as in other parts of the correspondence, establishing the free exercise of that religion, not the religion itself.

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Mr. Rose's extracts conclude with one, from a letter, written by Lewis to Barillon, dated 26th July, which manifests the disposition of the French King, and the object of his wishes; he says "you may declare plainly, that I have spared nothing to afford you

Rose, p. 109.



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“ means of assisting the King of England, when I  
 “ had reason to apprehend, that the Catholic religion,  
 “ of which he makes profession, served only for a  
 “ pretext for the factious to excite great troubles in  
 “ his kingdom, and to prevent his enjoying the re-  
 “ venues, which expired on the death of the late King.”  
 The declaration, hereby authorised to be made, did  
 not pretend that the establishment of the Catholic  
 religion, or a toleration of it ever had been the object,  
 for which the French King had made an offer of his  
 treasure to James, but the security of his crown, and  
 the enjoyment of those revenues, which his predeces-  
 sor had been in the receipt of. So long therefore,  
 and so long only, as the Catholic religion was a dan-  
 gerous pretext for the factious to use, Lewis declared  
 himself ready to disburse his money to counteract  
 them. And after the royal revenue was settled, and  
 the favourable disposition of the Parliament was appa-  
 rent, he announced his resolution to make no ad-  
 vances.

James's first  
 object was not  
 the Catholic re-  
 ligion.

From this short review of the passages in the French  
 Correspondence, which Mr. Rose has selected, it appears  
 that he has not succeeded better by the production of  
 them, than by his reference to James's proceedings  
 in England, Scotland, and Ireland. They all confirm  
 Mr. Fox's assertion, that the primary object of his reign,  
 at least until the defeat of Monmouth, was not the  
 Establishment of the Catholic religion, and that during

that period, James never had in view more than a complete toleration of it. Mr. Fox has observed that after the execution of Monmouth, he was probably inspired with the design of taking more decided steps in favour of the Popish religion and its professors, and it is not improbable if his reign had been lengthened, that as his throne became more secure, and his power increased, he might have extended his efforts to the completion of objects, which, when he first succeeded his brother, he had not the courage to think of.

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Fox, p. 276.

Mr. Rose then proceeds to answer the train of reasoning by which Mr. Fox has endeavoured to shew, First, what were the maxims of policy, and temper and disposition of James, in matters in which his bigotry to the Catholic religion had no share; and secondly, that Popery was not always his primary object. But Mr. Rose, with his usual display of official accuracy, totally mistakes the facts and arguments, which he is determined to controvert. Mr. Fox explains the policy, temper, and disposition of James from the complacency, with which he looked back to the share he had had in the affairs of Scotland, when acting in his brother's life time, as the Regent of that country, joined to the general approbation he expressed of the conduct of the Government there; but Mr. Rose is so bewildered in the murky atmosphere of party, as to suppose, and argue upon the supposition, that the facts mentioned

General policy  
of James.

Fox, p. 123.

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by Mr. Fox took place after James ascended the throne, and by a strange anachronism, that all the persons concerned in them acted as his servants, and none of them as his brother's. The manner, in which Mr. Rose has expressed himself is sufficiently obscure, but the following is presumed to be a fair statement of his argument.

Absurd conduct  
of James as  
Duke of York,  
if Bigotry his  
passion.  
Fox, p. 123.

Mr. Fox in a most powerful and masterly style points out the extreme absurdity of James's conduct, if the Establishment of his religion was the object of his pursuit, when in his brother's reign he was entrusted with the Government of Scotland, and by the most cruel, and rigorous measures sought to establish the Episcopalian, upon the ruin of the Presbyterian form of worship, and to compel the people to take a test, the refusal of which imposed disabilities upon Catholics, and which he himself could not take. Mr. Rose gives but a faint idea of Mr. Fox's argument, when he thus describes its amount; "Mr. Fox however insists much on the partiality of James to the Protestant Episcopalians, and on the test in their favour, as a proof that he had not in the beginning of his reign a design to establish Popery on the ruins of their Church, conceiving that a contrary opinion would be the height of absurdity."

Rose, p. 112.

James partial to  
the Episcopali-  
ans of Scot-  
land.

The argument so stated consists of two parts, First, that James was partial to the Protestant Episcopalians;



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and Secondly, that he enforced a test in their favour. To the first, Mr. Rose replies, that it is no uncommon thing for bodies of men, as well as individuals, to promote measures which have been ruinous to themselves. This is certainly true, and he might have added that it will continue to be no uncommon thing, so long as the world endures. But the question is, not whether the measures, promoted by James, were ruinous to him, but whether he promoted them with a design that they should be so. Mr. Fox collects his intention from his acts, and justly argues that he could not have the object, Mr. Rose attributes to him, in view, because his conduct was destructive of it.

To the second, Mr. Rose's answer is, that the test was disposed of by him, as far as his power extended, in a few months after his accession; and in the first year of his reign his speech left no doubt upon the point, and if there could have remained any, the appointment of Papists to civil and military offices must have effectually removed it. Here Mr. Rose has certainly misunderstood the argument he is endeavouring to answer, for Mr. Fox is not contending that the test was to be relied upon, as a protection to the Established Church of Scotland, nor inquiring what James did afterwards when he became King, or said to the two houses of the English Parliament, or how he acted in the distribution of offices. The argument is confined

James enforced  
a Protestant  
Test.

Mr. Rose mis-  
takes the argu-  
ment.

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to the conduct of James, when Duke of York in the Government of Scotland.

James was commissioned to assist and support the Episcopalian Establishment, and enforce a test, which no Catholic could take, in order to exclude the Presbyterians; and this not to make room for the Catholic religion, but to secure the Throne against the designs of the Presbyterians, who were dreaded, as Republicans.

From the manner, in which he executed these orders, Mr. Fox draws an inference in favour of his view of James's designs when King. It is argued that in his conduct in Scotland he evinced a zeal and intolerant spirit which could not arise from his attachment to the Catholic religion, for it did not tend to promote it, nor to the tenets of the Church, in support of which it was practised, for James was not of that Church; Mr. Fox concludes, therefore, that it could be attributed to nothing, but that love of absolute power, that devotion to arbitrary principles, to which all Princes are prone, and which was a leading feature in the character of the Stuart race. The violence he shewed, the persecution he practised at the commencement of his reign, are not conclusive proofs of his being solely actuated by zeal for his religious opinions, because at another period of his life, and in a different situation he had shewn himself equally

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violent, and equally persecuting in maintenance of arbitrary government, when that government was intimately connected with, and directed by a faith, which he did not profess, but which he abhorred. At that period of his life, bigotry was only a secondary passion in his heart; the necessary consequence of his acts being to postpone, if not to render impracticable, the introduction of the Catholic religion. It is no answer, therefore to say, as Mr. Rose does, that he might have acted foolishly in promoting these measures; the charge is, that he knew the object for which his brother sent him, and eagerly sought to effect it; and that this he could not have done conscientiously, if he had entertained the sentiments attributed to him. Mr. Rose inadvertently, but certainly most inaccurately, conceives Mr. Fox to be treating of the English Protestant Episcopalians, and a test in their favour, instead of the Scotch; and to be arguing that James had not in the beginning of his reign, a design to establish Popery, when he was inquiring into his general sentiments from his conduct in a subordinate situation, under a former King, for the purpose of exposing the absurdity of the supposition of his having "thus early" conceived the intention of introducing Popery on the destruction of the Protestant establishment.

Mr. Rose, continuing in the same mistake, treats with some degree of levity, an argument which it is

The confidential advisers of measures in



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Protestants.

Rose, p. XII.

Fox, p. 125.

manifest he does not understand. Mr. Fox says, " The  
 " next important observation that occurs, and to which  
 " even they who are most determined to believe that  
 " this Prince had always Popery in view, and held  
 " every other consideration as subordinate to that pri-  
 " mary object, must nevertheless subscribe, is, that the  
 " most confidential advisers, as well as the most furious  
 " supporters, of the measures we have related, were  
 " not Roman Catholics. Lauderdale and Queensberry  
 " were both Protestants. There is no reasons there-  
 " fore, to impute any of James's violence afterwards  
 " to the suggestions of his Catholic advisers, since  
 " he who had been engaged in the series of measures  
 " above related, with Protestant counsellors and coad-  
 " jutors, and surely nothing to learn from Papists,  
 " (whether Priests, Jesuits, or others) in the science  
 " of tyranny." The reasons produced by Mr. Rose  
 for thinking that little weight should be given to this  
 argument, if the evidence, already observed upon, should  
 have established his opinion that the establishment of  
 the Catholic religion, was the first object of James,  
 is expressed in the following words, " it is not very  
 " likely that much doubt will be raised on the point  
 " by Mr. Fox's observation, that two of the confi-  
 " dential advisers of *this monarch*, Lauderdale and  
 " Queensberry were Protestants, when it shall be re-  
 " collected *what an entire subserviency James expe-*  
 " *rienced from the former*, in every measure of im-

Rose p. XII.

“ portance, during the long time he presided in the administration of Scotland: and that the latter was removed from his employment, because he would not become a Papist; and especially if it is also considered *how the whole of that administration was composed.*”

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In writing an answer to Mr. Rose's book a more than common attention is requisite, for it often happens, that it is more difficult to understand, and apply his arguments than to encounter them. Some skilful Rhetoricians lay it down for a rule, always to change the terms of a proposition, which is meant to be answered, but Mr. Rose is not confined within such bounds, for, without being conscious of it himself, he frequently mistakes the fact, on which the argument of his adversary is founded, and changes not only the terms in which the proposition is expressed, but the proposition itself; the present discussion affords an instance. Mr. Fox makes an observation arising from the Duke of Lauderdale and the Earl of Queensberry\* being the confidential advisers of measures which had been pursued in the reign of Charles the Second. Mr. Rose has mistaken the facts, and has stated the observation to depend upon these two noble Lords, being the confidential advisers of James the Second, after he was King. Unfortunately it happens, that Lauderdale never could have

Mistake of Mr.  
Rose.

\* He was made a Duke in the last year of Charles's reign.

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been his adviser, after he ascended the throne, for he died in 1682, two years before.

Mr. Fox's argument.

Mr. Fox's argument founded upon the facts first mentioned, would be downright nonsense, if made to rest upon Mr. Rose's statement. It is, that James's violence after he came to the throne ought not to be imputed to the suggestions of Catholic advisers, when he had before so vigorously promoted measures of tyranny with Protestant counsellors, and coadjutors. And to this, Mr. Rose's arguments afford no answer, as we shall now proceed to shew.

The first, drawn from the entire subserviency experienced from Lauderdale by James, when he was Duke of York, through his long administration in Scotland, is not very intelligible; and where is that subserviency recorded? Lauderdale's administration ended when James's began, but it cannot be doubted, surely, that while he was in power, and for some time afterwards, he advised and supported the measures in question, and that he lived and died a Protestant.

Mr. Rose still mistaking the facts, and also misunderstanding the argument of Mr. Fox, says that Queensberry was removed from his employment, because he would not become a Papist. Mr. Rose here unintentionally corroborates one part of Mr. Fox's statement,



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for he asserts that Queensberry was a Protestant, and a zealous one too, and admits the other, namely that he promoted measures of tyranny.

When we have ascertained that Mr. Fox is referring to transactions in the reign of Charles, there cannot be much strength in the third argument of Mr. Rose, arising from the consideration of "how the whole of *that administration* was composed." The expression here used leaves it doubtful to what administration Mr. Rose intended to allude. But whether it was the composition of the administration, of which Queensberry was the head in the reign of James the Second, or that which was formed immediately after his dismissal, as, from the quotation made from Mr. Laing's History may be suspected, is not very material. The manner in which either of those administrations was composed cannot affect Mr. Fox's argument, and the act of a King, done for the effecting a particular purpose, has no tendency to prove that he had pursued the same object, when acting as the servant of a former King, with the assistance of his confidential advisers in the completion of a different purpose.

Mr. Rose, having his mind filled with the particular branch of the subject of which he is treating, has not attended sufficiently to the course of argument pursued by Mr. Fox, but has taken for granted that every sen-

Answer to Mr.  
Rose's Observa-  
tions on a sup-  
posed argu-  
ment of Mr.  
Fox.

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tence in this part of his book, and every fact mentioned must have for its sole, and immediate object, the establishment of that opinion, which he was in the act of controverting. The argument of Mr. Fox was, therefore, misunderstood by him, and he supposes it to be that the establishment of the Catholic religion was not the primary object of James the Second, immediately after his accession because his two confidential advisers Lauderdale and Queensberry were Protestants. Mr. Rose never could have fallen into so egregious a mistake, if he had given himself time for reflection. For with respect to Lauderdale he could be a member of no administration under James, for he died before he succeeded the throne. And his long and entire subserviency to James when Duke of York, being experienced, if in fact it ever existed, in favour of one Protestant church against another Protestant church, does not afford the inference that he would have been equally subservient, when the object in view was the destruction of both these churches, and the establishment of the Catholic religion in their stead.

Argument  
from the re-  
moval of  
Queensberry.

Mr. Rose is more fortunate in the mention of Queensberry, for he was a confidential adviser of James when upon the throne; and his removal, because he would not become a Papist, is urged by Mr. Rose as an argument to shew that the first object of James was the establishment of his religion. The character of Queensberry afforded a security to the

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public that while he remained in power, nothing would be done injurious to the Protestant religion, or tending to the destruction of his church. He had high notions of prerogative, but he would not consent to go as commissioner to Scotland, until he had an assurance from James himself, that there was no intention of changing the established religion. And his being afterwards dismissed, and a new administration formed, consisting of Catholics only, tends to prove that James at first, had no objects in view, which Protestant advisers might not have supported, and that when he determined to change his measures, it became necessary to change his ministers also. The fact is, that after James succeeded to the throne, he found Queensberry complying and subservient as long as arbitrary power was his object, but refractory when Popery was his aim. One of two things, therefore, must be admitted; either that James was deceiving Queensberry at first, or that he entertained only those designs to the promotion of which Queensberry was happy, and ready to contribute, namely the establishment of absolute power; and that when afterwards James took up that of introducing the Catholic religion into Scotland, he lost the assistance of that minister. The question then is, which is the most probable? which most consistent with the principles and characters of the parties? Did James wilfully deceive

Fox, p. 104.



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Queensberry, or did he honestly change his mind afterwards ?

James at first  
expected aid  
from the Epis-  
copalians.  
Rose, p. 118.

Fox, p. 155,  
156.

Mr. Rose goes on to say, that James "certainly" thought he could by management at first derive aid "from the Episcopalians." Mr. Fox has made, in effect, the same observation, if it is applied to James's Episcopalian subjects in general; he certainly did, at his accession, hope to derive aid, in his pursuit of arbitrary power, from the Episcopalians; but when he determined to take decisive steps in favour of the Catholic religion, they became alarmed for themselves, and deserted him, and in return he treated them with little tenderness. But how does this observation bear upon the argument of Mr. Fox, drawn from his conduct to the Scotch Episcopalians, when as Duke of York he was invested with the government of Scotland? It has been observed before how improbable it is, that in that situation he should have had in view the promotion of the Catholic religion by enforcing the test of a Protestant church. Besides his brother must have been a party to the design, and on his brother he must have depended for the success of so strange, incoherent, and inconsistent a plot. But his brother, he well knew, was fully apprized of the folly and danger of such an attempt, and would not become a party to it; and the only motive, which they could

have, in common in promoting the sanguinary proceedings alluded to, was their devotion to the cause, as well as their love of the possession of arbitrary power. This principle, and this principle only, could have made a Catholic prince so zealous in enforcing obedience to a Protestant hierarchy, and he did it, not in the character of a Catholic, but a sovereign.

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The notion, so ingeniously suggested by Mr. Rose, that the Episcopalians might have encouraged him to expect their co-operation, and that of their brethren in England, in transferring their privileges and power to his most favoured sect, is chimerical, and absurd to the greatest degree. Such an uncommon instance of disinterestedness in any body of clergy, whether running into Arminian, Presbyterian, or any other tenets, would have been without motive of either duty or interest, and without example in history. James might think that by enforcing their test, he might inspire them with an affection for, or induce them to yield a cheerful obedience to the arbitrary power which supported them; but he could not expect, that he could ever succeed in persuading them to abandon their tenets, by forcing other men to profess them.

Established  
church not  
likely to give  
up their emol-  
uments.

Mr. Rose then presents his readers with a letter from Barillon to Lewis, written immediately after

Rose, p. 114.

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III.Fox, App. p.  
xxxiii.James's plan, a  
complete toler-  
ation of the  
Catholics.

James's accession (dated 26th February, 1685) in which his own declaration, as Mr. Rose justly observes, shews plainly, what "he had in his mind from the hour of "his accession." The following is a more correct and literal translation of the passage, than Mr. Rose has given. "This prince," (i. e. James) "explained to "me fully his design respecting the Catholics, which "is to establish them in an entire liberty of con- "science and of exercise of the religion, which can- "not be done, but by time, and conducting affairs gra- "dually to this end. The plan of his Britannic Ma- "jesty is to accomplish it by the succour, and "assistance of the episcopal party, which he regards "as the royal party, and I do not see, that his de- "sign can go" (or operate) "to favour the noncon- "formists, and Presbyterians, whom he regards as "true republicans. This project must be accompanied "with much prudence, and will receive great oppositions "in its progress." This passage is decisive, and puts an end to all Mr. Rose's reasoning at once. For it proves that James, at this time, had formed no design hostile to the establishment, and all he hoped to obtain, or meant to attempt was a full liberty of conscience, and public worship to the Catholics. This conversation manifests that James continued to hate the Nonconformists, and Presbyterians, because he regarded them as republicans, and feared their power; but he relied upon the co-operation of the Episcopa-



lians, whom he had been taught to consider as attached to the monarch and his throne. It would have been downright madness to have expected, even from zealous friends, that they would surrender to the Catholics their power, honours, and emoluments; but he thought he might rely upon their permitting to the Catholics, the liberty he assumed for himself, of publicly worshipping God in his own way, when the preservation of a tottering monarchy seemed to require a hearty union of all its adherents. At this crisis he was giving a full explanation of his *whole design*, to Barillon, yet it is observable, that he had not, as yet, in contemplation even a complete toleration; for the liberty he then talked of for the Catholics, extended only to the enjoyment of their own worship, not the removal of tests, and disqualifications.

So little does Mr. Rose understand the import of this passage, and so little is he conscious of its importance, that probably with intent to fix a charge of duplicity, or inconsistency of conduct on James, he remarks that this communication was made at the very time he was telling his Privy Council, what he repeated a few months afterwards to his Parliament, that he should make it "his endeavour to preserve the Government in Church  
• "and State, as it is now by law established."

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III.Chand, Deb. ii.  
p. 169.

In this it is not easy to discover any inconsistency; at that time the Church of England was considered by him, as his firmest support, and he declared to the Privy Council, "I know the principles of the Church of England are for monarchy, and the members of it have shewn themselves good and loyal subjects, therefore I shall always take care to defend and support it." But his sentiments were still more strongly expressed in his answer, made on the 23d of May to the address of the House of Commons, that they would stand by him with their lives and fortunes against Argyle, the King said, "I could expect no less from a House of Commons is composed, as (God be thanked) you are: I rely on the assurances you have given me, which are the natural effects of *monarchical church of England men*. I shall stand by all such, and so supported have no reason to fear any rebels, or enemies I now have, or may have." If Mr. Fox is right in the supposition, that, at this period, the King had in contemplation only a complete toleration of the Catholics, he might have made and probably did make the declaration to which Mr. Rose alludes, with an intention *bona fide* to fulfil it. It will not, it cannot be contended in this country, that a Prince may not be the zealous protector and friend of an established church, and yet the firm supporter of a toleration for those of his subjects, who choose to separate from it. In settling his own power, and in the design to make himself absolute, James flattered

himself with the prospect of assistance from the members of the establishment, and he was not disappointed, for they supported him until they conceived their own church to be in danger.

Before we dismiss this passage from consideration it is worthy of remark, that Dalrymple has omitted it in his collection from the French Correspondence. Mr. Rose cannot, if he would be consistent, deny that it is important, for he has cited it from the Appendix to Mr. Fox's Work as being so, and his memory must have strangely failed him, when, having thus borne testimony to the usefulness of Mr. Fox's discoveries, and benefited by them, he denies their being of any value, as we shall find him doing in the next section, and in other parts of his work.

Even after the execution of Argyle, when James's power seemed to have attained its summit, he neither, by word or deed, expressed a design, it might be said, even a wish to obtain more for the Catholics than a toleration. When he met the Parliament a second time in November 1685, he declared the object of their meeting to be, to enable him to keep up a larger standing army, on account of the inefficiency of the militia, and told them that he had employed officers who had not qualified according to the late tests, and that he would not dismiss them. Finding the Parliament re-



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fractory, he prorogued it, and obtained a decision in a court of law, in Sir Edward Hales's case, in favour of his dispensing power; and being determined to use it, in 1687 dismissed from his councils the Earl of Rochester, whose continuance in power had been a pledge to the Church of England, that nothing would be undertaken by the King materially to injure it. James then became anxious to make proselytes; and issued a declaration of general indulgence suspending, at once, all the penal laws against Nonconformists and Catholics. It may be recollected that Charles had made a similar declaration, in 1662, and another in 1672, but the remonstrances of his Parliament had compelled him to recal them in both instances. He was too prudent to try the experiment any more, and James, who had been displeased with his brother's conduct, adopted a bolder one, and shewed so much favour to the Catholics, and their religion, as to alarm his Protestant subjects, he closetted, and endeavoured to prevail upon the Members of the Parliament to promise to consent to the repeal of all tests, and penal statutes, but being disappointed, dissolved the Parliament, and resolved to call a new one. The experiment did not succeed, for not being able to manage the elections, so as to secure a majority favourable to his design, the writs of summons were never sent out. In 1688, he issued another declaration of indulgence, nearly the same as the former, with an order that it should be read in all the

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churches, immediately after divine service. This order occasioned the trial of the seven bishops for seditious conduct in presenting a petition against it, and was he immediate cause of the revolution. As far as the object of the two royal brothers can be traced down to a particular point in James's reign, they both wished for a toleration for the Catholics and no more, and it may be doubted whether the proceedings, even of the latter part of James's reign, pointed to any further object. That, if the declaration of indulgence had been quietly submitted to James might have proceeded to further extremities against his good friends the members of the Church of England is a matter of speculation, which it is unnecessary to discuss. But that in his own opinion, he had done nothing to justify their desertion, and was not conscious that he deserved it may be argued from his telling Henry Earl of Clarendon, on the 24th September, after the Bishops had been tried, that the Dutch were coming to invade England, and saying "now, my Lord, I shall see what the Church of England men will do." And on the 23d of November, the same Earl of Clarendon relates, that he waited upon the Queen who *discoursed very freely of public affairs, and said, "how much the King was misunderstood by his people, that he intended nothing but a general liberty of conscience, which he wondered could be opposed. That he always, intended to support the religion established,*

Clar. Diary p  
66.

Ib. p. 91.

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“ being well satisfied of the loyalty of the Church of  
“ England.”

The MS. genealogy of the family of Lindsey, in possession of the Earl of Balcarras,\* is a great authority upon this subject, and if James's most solemn declarations are to be credited, there can be no doubt, that his designs in favour of the Catholic religion never extended to the destruction of the established church, or beyond a toleration sanctioned by law. The MS. says, “ when he became King all his good qualities became “ defaced by a religion, so detestable to his subjects.— “ Yet he always protested, that he never meant to con- “ strain the minds of any, and that *all he wanted was* “ *toleration to his own religion.* Certain it is, that “ some days before he died at St. Germain's, he brought “ all the Foreign Ministers into his room, and all his “ subjects of any rank, who were there, took the Sacra- “ ment before them, and called the Almighty to wit- “ ness, that he never intended to alter the laws, or “ religion of his country, except that of toleration, for “ which he hoped for the concurrence of Parliament.”†

\* For the loan of a MS. copy of this genealogy out of the valuable library at Hafod, the author has to make his acknowledgments to Thomas Johnes, Esquire, who liberally communicates to others the stores of knowledge, which he knows so well how to make use of himself.

† A writer in the British Critic for September 1808, when reviewing Mr. Fox's book, states that in the Scotch College at Paris was



Having now proved that neither James, nor Lewis had, in the early part of the reign at least, any thing further in view, than a complete toleration for the Catholic religion; it may be satisfactory to the reader to remark that the hopes of the Catholics themselves, and the wishes of some of them did not extend further. For Barillon describes them, when the second Session of the Parliament was about to be held, as divided among themselves, about the extent of the toleration, which would content them. Some of the more rich and respectable wished only for a repeal of the penal laws, but the Jesuits, the most active of the Catholics, and those in the confidence of the King were anxious for the removal of the test also, but a complete toleration would have been satisfactory to all.

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the Catholics.Fox, App. p.  
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preserved a copy of a plan for James's future Government, in case he should have been restored, authenticated by the signature of the Queen, and intended to serve as instructions for his son after his decease. The reviewer says that in 1777, he made an analysis of this paper, from memory, immediately after repeated perusals, in which we have this sentence, "If a toleration were to be established, he considered it as certain, that, in time, the people would be won over to the true religion; but he regarded the Protestants, as too enlightened to put themselves into that situation, without a force which should oblige them to it," and when he notices the administration he should wish to have formed, he does not wholly exclude Protestants. Even in these instructions the establishment of the Catholic religion, does not appear to have been in the contemplation of James.

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Mr. Fox uniform in his opinion of James's Religion.

Rose, p. 115.

Fox, p. 116.

Mr. Rose then observes, that Mr. Fox shews great anxiety, that the events of James's reign "should not be attributed exclusively to the particular character and attachment of the Monarch, but rather that it should be considered as a part of that System, which had been pursued by all the Stuart Kings;" and then stating, that Mr. Fox was not "uniform in this opinion," copies a passage of the Historical Work, leaving his readers without any comment to discover, if they can, the want of uniformity in opinion to which he alludes. This passage alledges, that while "James contented himself with absolute power in civil matters, and did not make use of his authority against the Church, every thing went smooth and easy," and that it is not necessary to account for the satisfaction of the Parliament, and people, at his asserting unlimited power, by any implied compromise in favour of the religious constitution, for the King rather fell in with the humour of the prevailing party, than offered any violence to it. Where the inconsistency between the two passages is, it would have been charitable to have explained, for the sentiment in both seems to be perfectly uniform. James is supposed to have pursued the same system, as his three immediate predecessors had done, but more fortunate than they had been, both the Parliament and people were satisfied with his assumption of unlimited power, and in asserting it, he rather fell in with the humour of the prevailing party, than offered any violence to it. The ease, with which

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he attained that power, is also supposed to have led him to exercise it without apprehension or scruple, in a manner, which he had before thought would be hazardous in the extreme, and even impracticable. To sustain this opinion, three propositions must be made out; first, that he aimed at arbitrary power; second, that he acquired it easily; and third, that he was by this circumstance induced to employ it for the promotion of his favourite religion. To all these points Mr. Fox adverts with his usual accuracy and well-known felicity of argument, but because he endeavours to account for the second proposition by a description of the temper of the public at that time, Mr. Rose very gravely concludes, that he is mistaken, and persuades himself that a transcription of the passage will prove him to be so.

We shall not detain the reader by discussing how far the natural disposition of James, or the general popular belief can be used as arguments on the side of the question supported by Mr. Rose. It is allowed by him that it is safer to rely on authentic documents, and undisputed historical facts.

Rose, p. 116.

Mr. Rose says, the hierarchy of Rome "must have  
" been more favourable to the submission of the people  
" to arbitrary sway in civil concerns, than the plainer,  
" and less pliant code of the reformed religion, parti-

In France the  
Protestants on  
the side of ar-  
bitrary power.  
Rose, p. 117.



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“ cularly in its Calvinistic form. Accordingly in all  
“ countries, divided in point of religion (remarkably in  
“ France and Germany), the Catholics have generally  
“ ranged themselves on the side of absolute power, and  
“ the Protestants on that of freedom.” That the nature  
of the Protestant tenets, and discipline is, in general,  
more favourable to civil liberty than those of the Ca-  
tholics is readily acknowledged. But the political tenets  
of these two parties, and the side, on which they have  
respectively ranged themselves, have generally been the  
effect of the peculiar circumstances, in which they have  
been placed, rather than the result of the religious prin-  
ciples they had adopted. The Protestants of England, as  
we have shewn before in this Section, ranged themselves,  
at the Reformation, on the side of absolute power; and  
Mr. Rose is peculiarly unfortunate in citing France as an  
example; for when was that country most divided in  
point of religion? at the time of the league. And  
what were the respective tenets of the two sects on  
the subject of Government at that time? The Pro-  
testants held the indefeasible right of the King to absolute  
power, and the Duke of Guise, or at least his adherents,  
asserted the right of the nation to choose a King, the  
necessity of a government by the estates of the realm,  
and the original right of the people, subject indeed  
to the true religion and the Pope, as God’s Vicegerent  
on earth, to regulate their government. And, before,

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and after the murder of Henry the Third of France, a great number of pamphlets and essays were published by Jesuits and other Catholics of the most republican tendency, and of the most violent nature, against both the principle and practice of kingly power\*. The truth is, that men are governed by their passions, more than by their reason, and in their zeal for their respective religions, both Catholics and Protestants forgot the rational principles of liberty, and adopted those, which they found most useful for the immediate support of their religious tenets. It happened that the sovereign princes of Europe were Catholics, and most of them continued to be so after the Reformation, their subjects, therefore, after they had become Protestants, endeavoured to justify their separation from the universal church, and maintain themselves in it by an appeal from the divine right derived from the Pope, to the human rights of the people; the general creed

\* The President Henault mentions as made in 1587, what he calls "Arreté étrange de la Sorbonne; que l'on pouvoit oter le gouvernement aux princes que l'on ne trouvoit pas tels qu'ils falloit, comme l'administration au tuteur, qu'on avoit pour suspect." *Abregé Chronologique*, ii. p. 573. A Decree of the Protestant University of Oxford, made nearly 100 years afterwards, in 1683, affords a striking contrast; the third proposition, declared to be false, "seditionous, and impious, was that, "if lawful governors become tyrants, or govern otherwise than by the laws of God and man, they ought to do, they forfeit the right they had unto their government."

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of the Protestants, from this circumstance, became more rational and more free than that of the Catholics, who for reasons of a contrary nature, thought themselves obliged to support their Sovereigns, in the most absurd pretensions.

No proof James  
was guided by  
religious zeal.  
Rose, p. 117.

The next argument offered by Mr. Rose is, that “in tracing the actions of James from his accession downwards, we find numerous instances of his adopting measures, to which he could be prompted only by his religious bigotry, because they were unfavourable to his arbitrary power.” Here Mr. Rose is strong in assertion, but weak in proof, for the only specific evidence produced to support this general allegation arises from his conduct in the last illness of his brother, when he expressed great anxiety, that he should breathe his last, in the bosom of the Catholic Church, accompanied with the expression, that he would hazard every thing, rather than not do his duty upon that occasion. Mr. Rose, however, has further favoured us with two general observations,—first, that from the commencement of his reign, all his proceedings were calculated for paving the way for the sovereign Pontiff to readmit the English nation into the only true church, which marked unequivocally his fixed and determined purpose. Mr. Rose’s authority however great, will not alone command submission to his opinion in this

1b. p. 119.



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respect, and it may still be doubted that James had such fixed and determined purpose, or that all his proceedings were directed to that end, notwithstanding a long section of his book has been exhausted in the fruitless attempt, to prove it.—Secondly, that he was so bigoted to his religion, that in all his difficulties he never conciliated his opponents, or retracted his opinions, and uniformly spoke of his obligation of conscience, “as paramount to every object of interest or ambition, or of any compliance to obtain them.” That he was bigoted in a high degree to his religion, that he did not conciliate his opponents or retract his opinions, we may readily admit, but that he uniformly spoke of his obligation of conscience being paramount to every object of interest, or ambition, remains to be proved. It has not yet been shewn, that he was less zealous in pursuit of arbitrary power, than attentive to the obligations of conscience; or that he did not occasionally sacrifice the interests of his religion on the altar of ambition.

The next paragraph seems to have been introduced for the purpose of destroying the whole effect of Mr. Rose's previous reasoning, for it shews that an inordinate love of power may be concealed under the mask of zeal for religion, and that the professions of Kings are not always to be trusted. It is remarked, that “Lewis the Fourteenth, whose ambition was

Lewis's zeal for religion subservient to his love of power.  
Rose, p. 120.

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“ about to desolate a great part of Europe, whose  
 “ intolerance excited him to reduce to want and mi-  
 “ sery a million of his subjects, was proud of what  
 “ he thought the spirit, as well as the title of the  
 “ most Christian King.” Mr. Rose then observes, that  
 he reproved Barillon’s suggestion that danger might at-  
 tend James’s going publicly to mass, when it was ne-  
 cessary for “ the ease of his conscience,” and expressed  
 his zeal for the orthodoxy of the church, which Mr. Rose  
 incorrectly states he hoped James would establish\*,  
 and keep free from Jansenism, and adds the same

Fox, App. p. lv. \* The Letter begins by observing that there is great likelihood that the King of England, who *now makes so public a profession of the Catholic religion, will soon ask from the Pope some bishops of that communion,* and as it cannot be doubted that his Holiness will select them *from the Clergy of England,* among whom Lewis had learnt there were some who had embraced the doctrine of Jansenism, he ordered Barillon to caution James upon the subject. In this passage Lewis makes no allusion to the establishment of the Catholic Church, as is supposed in the text, but assumes, that as the King makes public profession of its tenets, he will be desirous that the Pope should send him some bishops; and what proves that the Protestant establishment was not to be overthrown, Lewis takes for granted that the Pope will select them from its clergy. A toleration only for the Catholics was the wish of Lewis; the expectation of bishops being appointed does not imply that he had any idea of an establishment for them. This is farther explained by the transactions of the next year, when four Catholic bishops were publicly consecrated in the royal chapel, and with the titles of Vicars Apostolic, sent down into their respective districts to exercise the episcopal functions; and the Catholics of England have ever since had their bishops, even when their religion was not tolerated.

religious zeal, indeed, pervades "the whole correspondence with his ambassador here." We do not deny the truth of these observations, and lament that they are so well founded, but does he think he can persuade his reader into a belief, that the ruling passion of Lewis the Fourteenth was not the love of power, but of the Catholic Church? And if this is not the object of his reasoning, for what purpose is it introduced? From the hypocritical conduct of Lewis towards James we cannot infer, that he was actuated purely by religious zeal in all his efforts to increase his dominions and power. The faithful page of history has left no doubt as to his ruling passion, and when Mr. Rose shall have proved that Lewis, divested of all ambition, was an honest bigot, pursuing singly, at all risks to himself, and his subjects, the advancement of the Catholic religion, he may entertain some hopes of convincing the world from his example, that James had the same principles, the same objects, and the same ardour. But till that shall be done, the example of Lewis, taken from his own statement, affords one of the strongest arguments against him; for in that prince we have an instance of a Catholic monarch, professing great zeal for his religion, yet rarely, if ever permitting it to be an obstacle to his pursuit of power. The characters of the two princes in many respects have a strong resemblance, and the question



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is whether the transactions, which Mr. Rose supposes to originate in honest bigotry, may not, as well as the apparent religious zeal, which he has discerned through the whole of Lewis's Correspondence, be traced to another source, or at least be mingled with it.

More general  
objection an-  
swered.  
Rose, p. 121.

“ If we are right,” says Mr. Rose, “ in the view we have taken of this subject, it must be admitted, that the truth of history should not be sacrificed for the sake of an instructive lesson.” We certainly shall not withhold the admission; for the truth of history ought not to be sacrificed for any consideration, and we may add, the propriety of such sacrifice cannot depend upon extrinsic circumstances, or be unjustifiable only, because Mr. Rose is right in the view he has taken of the subject. But, if it were permitted to make the sacrifice for the sake of “ an instructive lesson,” Mr. Rose in terms not very intelligible observes, “ Mr. Fox's system does not seem to have any advantage.” The reason given is rather extraordinary, but, as a wilful perversion of the passage is not imputed, we must account for the misunderstanding of it, in some other way. The dreadful atmosphere of party, which so constantly envelopes Mr. Rose, is the most charitable solution. After reprobating the wish of the Tory historians “ to

Mr. Fox's system affords a more instructive lesson to subjects.

Fox, p. 102.

“ induce us to attribute the violence of this reign to  
“ James’s religion, which was peculiar to him,” Mr.  
Fox observes that “ if we consider it, as history will  
“ warrant us to do, as a part of that system, which  
“ had been pursued by all the Stuart Kings, as well  
“ prior as subsequent to the Restoration, the lesson  
“ which it affords is very different, as well as far  
“ more instructive,” and then proceeds to point out  
the particulars in which the lesson is more instruc-  
tive to Englishmen, if contests should unfortunately  
arise with their sovereign. The observation is con-  
fined entirely to the vices and conduct of Kings;  
and the lesson is supposed to be instructive, not  
to other Kings, but to persons, who may be go-  
vernated by them, and stand solely in the relation of  
subjects. Mr. Rose however totally misconceives  
the course of the argument, and endeavours to prove  
Mr. Fox to be wrong by an observation, which has  
no immediate connection with the question in dispute.  
“ Now,” says he, “ the lust of arbitrary power is  
“ a vice confined to Kings, which by persons in or-  
“ dinary life can be but little felt, or understood;  
“ whereas to bigotry and intolerance all ranks are  
“ subject, and their ill consequences are felt through  
“ all the stages of society.” Mr. Rose must know  
but little of mankind if he supposes the love of power  
and of arbitrary power too, is a vice confined to

Rose, p. 121.

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Kings. All men are formed of the same materials, and influenced by the same passions, and the lust of power belongs to every human being, however high or low his situation may be.—But granting that Mr. Rose's observation is well founded, and that a subject is debased by one vice fewer in number than his sovereign: yet this would be no answer to the passage quoted from Mr. Fox. A bigoted, and intolerant spirit may pervade all ranks, but it is rather the accidental weakness of the individual, than a vice incident to human nature: and at any rate is not one to which the situation of a King is in general more particularly exposed, nor against the prevalence of which, it is the interest and duty of his subjects to be continually on their guard. But the inordinate love of power, a vice so natural to man, is always fostered and encouraged in the sunshine of prosperity, and within the circle of a crown. It is a vice, in favour of which Kings are exposed to greater temptations than other men, and it is therefore that, which they should be seriously warned to avoid, and their subjects instructed to observe with vigilance, and guard against with jealousy.

A lesson, which puts subjects upon their guard, against an inordinate love of power in their Sovereign, is likely to be much more beneficial and salutary, than one which



can direct their conduct only, when he brings their religion into danger. The lesson, alluded to, is not pointed out, as Mr. Rose erroneously imagines, to persons in ordinary life, for the regulation of their transactions with each other, or to teach them individually humility in their temporal, or charity in their spiritual concerns.

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In the concluding paragraph of this section, Mr. Rose does not differ in opinion from Mr. Fox, either as to the love of power belonging to the three first Monarchs of the Stuart race, or to James, but it is the *use* only which the latter intended to make of it, which is disputed, and even that, we are told perhaps so much pains might not have been taken to establish, "had it not been for the deduction which Mr. Fox seems desirous of making from it; namely, that the desire of power, and indeed of its abuse, is so natural to Kings, that it is needless to look for any motive beyond that general one, to account for such tyrannical attempts in the Monarch, against the freedom of the people." Why Mr. Rose should be stimulated to so long, and laborious an investigation to shew the fallacy of that deduction, he does not inform his readers; surely it cannot be, that merely because Mr. Fox was desirous to make it, he was resolved to oppose it. He cannot dispute that the desire of power is natural

The desire and  
abuse of power  
natural to kings

Rose, p. 121.

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to all men, and among others to Kings; nor that power is liable to be abused wherever it is lodged, and more in the hands of those, who from their situation are exposed to stronger, and more numerous temptations than others; especially when they happen to be under fewer restraints to keep them within proper bounds. Whether, when tyrannical attempts are made against the freedom of the people, any other motive besides this general one ought to be sought for, must depend upon the circumstances, under which they are made; Mr. Fox thinks it unnecessary, in the case of James, to make any further inquiry, but Mr. Rose, conceives the Tory writers have discovered another motive, and has entered with more zeal than success, into the lists to defend them.

Principles and  
expressions of  
Mr. Rose offen-  
sive to royalty.

Rose, p. 122.

In the introduction to this Work we ventured to predict that principles more exceptionable, and expressions more offensive to royalty would be found in Mr. Rose's Observations, than in any part of Mr. Fox's Historical Work, and the concluding half sentence of the section may be produced to prove the fulfilment of the prediction. For there we find Mr. Rose boasting that it is the pride and happiness of the subjects of the British empire to reflect, that the energy of the constitutional principles of our Government, and the natural love of liberty in the country occasioned tyrannical

attempts, against the freedom of the people to terminate "in the ruin of the prince, and in the more firm establishment of the rights of the subject." Where are the principles concerning monarchy developed in Mr. Fox's book, at which any person avowing these principles may be supposed to feel alarm? Let Mr. Fox express his disapprobation of the execution of Charles the First, though the manner of conducting his trial was less exceptionable, than the proceedings against Lord Strafford—Let him declare his admiration of the talents of Cromwell, and his contempt of the baseness of Monk—Let him state, that legislative provisions may be overpowered by the ambition of a Monarch, and the subserviency of his ministers—Let him charge Charles the Second with concealing a treaty from some of his ministers—and let him attribute to Kings in common with all other men a natural love of power, and to their situation unavoidable temptations to abuse it; yet after all, he has manifested no disposition to exult over the ruin of a Prince, or make it his pride and happiness to contemplate the triumph of liberty, when attended by such a sacrifice.





SECTION THE FOURTH.

REPORT OF THE COMMISSIONER OF THE GENERAL LAND OFFICE  
FOR THE YEAR 1880



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## SECTION THE FOURTH.

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MR. ROSE thus explains the object of the fourth section of his work. "In the former sections we have ventured some remarks on those general points of Mr. Fox's narrative, and discussions, which appear rather to flow from a partial view of the subject, than to be authorised by history, or by the documents from which history is drawn. In this section is meant to be considered his representation of particular circumstances in detail, with which he endeavours to support the system he has laid down." Here Mr. Rose has not kept faith with his readers, for in this section, so far from considering in detail particular circumstances, in which Mr. Fox endeavours to support his system, he enters into consideration of one assertion only of Mr. Fox, "that the object of the supplies, furnished by Lewis to the two brothers, was to prevent their calling Parliaments, and enabling them to govern altogether with-

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Connection  
with France, in  
order to be in-  
dependent of  
Parliaments.

Rose, p. 127.



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“ out the controul, or intervention of these assemblies.”

We have already observed that Mr. Fox asserted that the object of a connection with France was, that these two Kings might reign independent of Parliament; but he does not any where say, that the object was to prevent the calling of Parliaments altogether, or to avoid the intervention of them, but to enable the King to govern uncontrolled by them. Mr. Rose, wholly mistaking the meaning of the observation of Mr. Fox, enters into a laboured refutation of what had not been asserted, and quotes so many extracts from Barillon's Letters, as to raise an apprehension, that his readers may think him tedious in his discussion whether the remittances from France were intended to enable the King to govern without a Parliament, and whether they could have been sufficient for that purpose. It is unnecessary to examine separately each of these numerous extracts, or to enter into any further argument respecting them, for they have been answered already in the beginning of the third section; but it may be observed in general, that they manifest on the part of Lewis a great desire, upon some occasions, that a Parliament should not be assembled, and upon others, that it should not be allowed to continue its sittings, and that to obtain his wishes he did not scruple to supply Charles occasionally with large sums of money. Charles, who found his plan of arbitrary power counteracted, and imagined his throne itself was endangered by the meeting of these assemblies, was not less desirous

Object of  
Charles.

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than Lewis could be, that his actions might be exempted from their controul, and his prerogatives secured from their interference. But he found, that the threat of calling a Parliament stimulated the French King to fresh supplies, or new subsidies, and therefore he did not chuse, in the early part of his reign at least, that it should be supposed he could by any possibility do entirely without them. On the other hand, Lewis did not wish that Charles should reign in tranquillity. From motives of policy he inclined to the re-establishment of a monarchical system of government in England, and that the exiled family should be restored, but his intention was that it should hold the sceptre in dependence upon him. The meeting of the Parliaments might occasionally derange his plans, and force its sovereign, reluctantly into measures hostile to his views. It is not surprising, therefore, that Lewis should consider it as an important object to do entirely without Parliaments, if possible, and look, with some degree of anxiety and apprehension, to the times of their assembling. The secret clue to these transactions between the two princes, may be discovered by a reference to two letters in Barillon's correspondence, dated the 3d of August, 1679, and the 3d of February, 1681, both cited by Mr. Rose. But he has omitted the first part of the passage in the former one, which runs thus: "This prince  
 " answered me, that he did not doubt but your Majesty  
 " was displeased to see monarchy attacked so violently,  
 " as it is in England, and that it was not for your interest

Object of  
Lewis.Connection  
between them  
explained.Dal. Mem.  
App. 2. p. 288.

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Rose, p. 133.

" it should be destroyed, but it was time," &c. This passage shews Charles was desirous that the ostensible object of this negociation should be the preservation of monarchy in England. And he afterwards, in this conversation with Barillon, asked the assistance of Lewis, in order that, " He might not receive the law from his " subjects," or as he also expressed it, that he might re-establish his affairs, " and not any longer depend on the " caprice of the House of Commons." Barillon was desirous to know whether he designed to go on without a Parliament, for a long time, or only to put off the session by frequent prorogations, and Charles answered, that he had already dissolved the Parliament, and " could " still put off the meeting of a new one," but he could not " engage, or promise to dispense altogether " with Parliaments, because, he had no hopes that " your Majesty would furnish the sums necessary for " sustaining the expences of the state, and supporting " him long, without the assistance of Parliament." Charles seems to have satisfied Barillon, that it was absolutely necessary he should call a Parliament, and Barillon told him, that the meetings of Parliament always appeared very dangerous, " and that it was difficult to " promise himself any thing from it favourable to his " interests, and that he would be always exposed " to see the Parliament carry itself in every thing contrary to France, and perhaps force him to enter into " such measures himself." This negociation ended



without effect, for the intended treaty was never completed, owing to the requisition, on the part of France, of an additional clause, to which Charles would not submit.

In the conversation just mentioned, Barillon leaves no doubt of the view, in which his master was accustomed to contemplate the meetings of Parliament; they were always dangerous to the interest of both these kings, and if he could have supplied Charles with money sufficient for his necessities, it is pretty clear, that it would have been accepted on the condition of his not summoning any. But the above mentioned letter of the 3d of February, 1681, is perfectly explicit, and destroys the baseless fabrick, which Mr. Rose has been attempting to erect; for Barillon says, "There remains only one difficulty, which is that of putting off *for ever* the sittings of the Parliament. I know very well it is a security which your Majesty has reason to demand \* but you promised me, in 1679, to consent that the Parliament should assemble when the King of England should think it necessary for his own interests, provided that then the subsidies should cease." The ambassador must be presumed to be informed of the wishes of his Majesty, who probably had written to him upon the subject. He had

\* "Il reste seulement une difficulté, c'est celle d'éloigner *pour toujours* la séance du Parlement. Je sçai bien que c'est une sûreté que vôtre Majesté a raison de demander, &c.

Rose, 139.

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shewn his wish in 1679, that none should be allowed to assemble, by imposing, as a penalty, the loss of the stipulated subsidies, if one should be called within the time fixed. When this letter was written, his object remained the same, but his anxiety had increased so much, that he was not then inclined to be contented with the compromise he had accepted upon the former occasion; he would not be satisfied with keeping Parliaments in check, or postponing their assembling to any definite time: the British Monarch was, *for ever*, to prevent their meeting, in other words, he was thenceforth to govern without them.

Mr. Fox dissatisfied with Sir J. Dalrymple.

Rose, 140.

If proofs were wanting of Mr. Rose having written the observations with a strong bias upon his mind, and of his understanding being powerfully operated upon by that atmosphere of party, in which he had so long lived, his remarks upon Mr. Fox's treatment of Dalrymple would amply supply the defect. He says, "Those, who wish  
" to be more fully and particularly informed on the  
" whole of the intercourse between the English and  
" French Courts, during the reigns of Charles II,  
" and James II, will not be disappointed in referring  
" to Dalrymple's Memoirs: for although there may be  
" ground for differing with that author on his reasoning,  
" there is no appearance of his having had any reluctance  
" to the discovery of facts, or to the production of  
" documents, by which they might be ascertained.

" It is difficult therefore to understand on what foundation Mr. Fox has stated that it was in consequence of his dissatisfaction at the manner, in which Mr. Macpherson, and Sir John Dalrymple had explained, and conducted their respective publications, that he was induced to consult their respective documents, and added, 'that the correspondence of Barillon did not disappoint his expectations: as he thought the additional information contained in those parts of it, which Sir John Dalrymple had omitted to extract, or to publish, so important that he procured copies of them all,' observing to one of his correspondents, 'my studies at Paris have been useful, beyond what I can describe.' "

In the beginning of this paragraph, Mr. Rose recommends the Memoirs of Sir John Dalrymple, as containing *full* information upon the *whole* intercourse between the two Courts, with the manifest intention of diminishing the merit of Mr. Fox, who had expressed his dissatisfaction with the book, and had exercised his industry to supply deficiencies, which as Mr. Rose contends do not exist. He gives a reason for this recommendation, which a strict logician might deny to be relevant to the matter in dispute, for, though Dalrymple might have no reluctance to the discovery of facts, or the production of documents, it does not follow, that Mr. Fox might not have discovered some facts, or produced some



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documents, which had escaped the notice of Dalrymple ; and it is not surprising, that Mr. Fox should be displeased with the manner, in which he explained, and conducted his work, if, as Mr. Rose allows, there may be ground for difference with that author, as to his reasoning upon those facts. This may be added to the long list of instances, already noticed, in which Mr. Rose first declares he differs from Mr. Fox, and then proves that he is right, and concludes at last with adopting his opinion.

Mr. Rose mistakes Lord Holland's Preface for Mr. Fox's Work.

Mr. Rose having thus answered himself, we might drop the subject, but the charges and the manner in which they are made by him, are deserving of a more minute examination. Mr. Rose says, in the paragraph last cited, that " Mr. Fox has stated," &c. and refers his readers by an asterisk, at the bottom of the page, to " Mr. Fox's Introduction, p. 24." The statement here alluded to was made not by Mr. Fox, but by the Editor of his work, Lord Holland, and Mr. Rose has complimented him, upon the manner in which he had executed his duty in that capacity, and more than once cited the preface, or address to the reader, as written by him. Why then he should sometimes consider it as the performance of Mr. Fox, and argue upon it as such, the reader may account for with all the charity he can. In the present instance, he not only treats Mr. Fox, as the author of that preface, but cites it in the note, as if written by him, and by the title of Introduction which is not given to it

Rose, Int.  
p. xiii.

by its author. This may not be done for the purpose of confounding it with the first chapter, which is called Introductory, and sometimes by Mr. Fox himself the Introduction, though it certainly may have that effect. But what becomes of Mr. Rose's accuracy, when after having read, and applauded the preface, as the work of another person, he supposes Mr. Fox to be the author, and a passage to be penned by him, in which he is described as expressing to himself his own dissatisfaction with Dalrymple, and Macpherson. But the carelessness of Mr. Rose does not end here, he goes on blundering as he began, when he says, that Mr. Fox "added that the "correspondence did not disappoint his expectations;" and it might be supposed that this was a continuation of the former passage, from the manner in which it is introduced, but in fact the two passages stand in the preface, ten pages asunder. This addition, as well as the former part of the quotation, was written by the Editor of the work, and if taken as the production of Mr. Fox, must be in the nature of a soliloquy, in which he was addressing himself upon paper, and giving himself an account of the great value of his own discoveries. The fact is, that Lord Holland, having detailed Mr. Fox's inducements to consult the original documents, says, that the correspondence of Barillon did not disappoint his expectations, and brings in proof of his (Lord Holland's) assertion two sentences, one from a private letter, the other from a conversation, in which Mr. Fox expressed

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himself, concerning the usefulness of that correspondence, in terms of high praise and delight. The testimony, thus produced by Lord Holland, is conclusive of the fact, that Mr. Fox was not disappointed. But, if there had been reason for disappointment, Mr. Rose might have been justified in proving, that Mr. Fox was unreasonable in being pleased with his discoveries, but not in saying that "Mr. Fox states," what Lord Holland only had inferred; and at any rate he does not exhibit any symptom of being accustomed to more than common accuracy, when he quotes Lord Holland's opinions and proofs as another person's.

Rose, p. 147.

Mr. Rose says, "it appears not to be quite consistent "with justice to reproach him," (i. e. Dalrymple) "with "having omitted to extract, or publish important dispatches." The words printed in italics are, in Mr. Rose's Observations, placed between inverted commas, as the words of Mr. Fox, and then Mr. Rose thinks he refutes them, by stating that the motives which he conjectures Mr. Fox would have suggested for Sir John Dalrymple suppressing them, could not have actuated him. In the first place, the statement is Lord Holland's, not Mr. Fox's. In the second, the fact of Sir John Dalrymple having omitted to extract, or publish parts of a correspondence, to which he had access, cannot be affected by a reference to his motives, but might properly be examined, by a comparison of the originals with his extracts, and publications. And



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lastly, the dispatches omitted may have been important, either in the view Mr. Rose supposes Mr. Fox to have meant, or any other, though Sir John Dalrymple did not omit them from any such motive, but through mere accident, or any other cause.

Mr. Rose still struggling, against the political bias of his mind, to be impartial, and possibly enjoying a conscious pride in believing himself to be so, next observes, that "It certainly does not appear how these studies of Mr. Fox, and the industry of his friends in copying for him, were usefully employed, for on attentively comparing the letters, he has printed, with Sir John Dalrymple's Appendix, it will be difficult to find the discoveries alluded to. We are, therefore, to learn what foundation there is for imputing to that author, an attempt at concealment, respecting any part of the censurable conduct of James, by withholding a part of the correspondence of the year 1685, *the whole of which is not published by Mr. Fox himself*, who has omitted a very long letter of the 26th of March, 1685, printed by Dalrymple," and in another place, he says, "the researches of the latter were confined, as already observed, to a part of the year 1685, whereas the Baronet applied his industry to every thing he could find, from the year 1667, to the Revolution." It is manifest that Mr. Rose underrates the labours of Mr. Fox, and contradicts the positive assertion of Lord Holland, when he states his researches to have been confined to a

Mr. Rose's  
further mis-  
take.

Rose, p. 141.

Rose, p. 147.

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IV.Fox, Pref.  
p. xxiv.

p. xlv.

part only of the year 1685, for we are expressly informed in the Preface, that he obtained copies of the most material parts of the whole of Barillon's correspondence; and as Barillon continued ambassador to the English Court till the flight of James, the industry of Mr. Fox must have been extended to the same period with that of the Baronet. The reason, (for which the editor alone is responsible) assigned in another place, why letters omitted by Sir John Dalrymple have been published, only "from the death of Charles II. to the prorogation of Parliament in 1685," is, because those of a subsequent date have no relation to the short period, which unfortunately is included in the Historical Work, and probably because a publication of all, would have swelled the appendix to an inconvenient size.

p. xliii.

With his accustomed accuracy Mr. Rose makes it matter of complaint, not only that letters, which had no reference to the Historical Work were not published, but that a long letter, dated the 26th of March, 1685, found in Dalrymple, had not been re-printed in the appendix to Mr. Fox's book. Here he must have forgotten that the avowed object of that appendix was to supply the omissions of Dalrymple, (with some few exceptions, among which is included the letter of the 18th of February, 1685, mentioned by Mr. Rose,) in Barillon's correspondence, during the short period of time mentioned in the preceding paragraph, not to lay before the public, duplicates

of what had been already printed. Mr. Rose also falls into another mistake, for he is not contented with making Mr. Fox answerable for all the errors of the editor in the preface, but actually speaks of his having printed the appendix of Barillon's Papers, which were not prepared for the press till after his decease. If Mr. Rose had been always officially correct, he might have attended to the passage in the editor's preface, where he says, that he is indebted to Mr. Laing, among other things, for "the selection of the appendix."

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Fox, Pref.  
p. xliii.

But we may put an end to this part of the argument, by an appeal to facts, which cannot deceive. Mr. Rose is well versed in calculations, and a reference to the letters published by Dalrymple, and in the appendix to Mr. Fox's Work, will shew at once, whether in fact the latter has made any material acquisitions in number at least. The letters and extracts which precede the Appendix to Mr. Fox's Work, amount in number to fifty-one, of which one only (giving an account of the death of Charles II.) is copied at length in Dalrymple, and seven others are copied in part, \* out of one of them only a single paragraph; besides which, there may be three or four more trifling extracts, of two or three lines each, interspersed in different parts of Dalrymple. If a comparison should be made between the bulk of the respective pub-

Mr. Fox's additions to Dalrymple important.

\* The most material of the republished documents are mentioned in a note to page xliii. of the preface to Mr. Fox's Work.



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lications, the correspondence in the appendix nearly fills 141 pages, of which, including the letter, giving an account of Charles's death, Dalrymple has published not quite 16, and Mr. Fox's editor not less than 121 pages; in other words, the letters, which the latter has presented to the public, occupy more than seven times the space which those of Dalrymple take up.

Having shewn that the letters published with Mr. Fox's Work, vastly exceed in number and quantity of writing, those contained in Dalrymple's publication, it remains to say a few words concerning the usefulness of Mr. Fox's discoveries. It might be tedious to the reader, to enter into a minute discussion of the merits of every one of these letters, but two general observations will suffice to prove, that Mr. Rose's assertion is not well founded; first, that the correspondence between a King and his ambassadors, carrying on intrigues with the Monarch, the ministers, and the legislature of a foreign state, must be highly interesting to every person, who wishes to understand its history, and form a clear idea of the origin and progress of its political events, while that correspondence was going on; and 2dly, that Mr. Rose himself has acknowledged the importance of Mr. Fox's additions, by making very free use of them; we may adduce as an instance, that for the single purpose of shewing bigotry to be the prevailing motive of James II. he has quoted no fewer than nine letters, not found

in Dalrymple, but supplied by the industry of Mr. Fox. And upon another occasion has cited, "Mr. Fox's *Appendix pussim*," which would not have been done, if he had made no discoveries.

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It may be proper, for the better understanding of the ensuing paragraph, extracted from Mr. Rose's book, to premise that in the publication of the *Observations*, he professes to have obeyed immediately the impulse of private friendship; but, as a secondary consideration, to have had a hope of rendering some small service to his country.

Rose, Introduction, p. ii.

His sole motive at first, he also says, was to disprove Mr. Fox's representation of Sir Patrick Hume's conduct. Mr. Rose, however, forgetting perhaps what he had written in his introduction, says, in the body of his work, "it is of little consequence to the object of this publication, whether Macpherson had recourse to the journal of King James, or to the historical narrative compiled from it, as there are only some general references to the authorities produced by him." If Mr. Rose means by "the object of this publication," the vindication of Sir Patrick Hume, which was originally his sole motive, it is true that this point may be of little importance; but if we are to understand him, to have abandoned the vindication of Sir Patrick Hume, as the principal object of his work, and to avow, that the object of his publication is to correct the statements and reflections of Mr. Fox, which before

True object of Mr. Rose's book.

p. iii.

Rose, p. 148.

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he described as only a secondary consideration, we must beg leave to differ from him in opinion. In this part of his work, he is discussing the justice of Mr. Fox's complaint of Macpherson, and Dalrymple, and one of those complaints being, that, from the manner in which the former refers to his authorities, there is no knowing what he refers to, it is surely of some importance to the illustration of the point, to ascertain to what authorities he had access.

Imposition of  
Macpherson.

It is curious to observe the measured terms, in which Macpherson expresses himself in his preface, so that from reading it, "one would have supposed," as Mr. Fox properly says, that he had inspected King James's original journal accurately, and taken all his extracts from it. He narrates circumstances, which he intended should mislead his readers, as they have misled Mr. Rose, to give him credit for having consulted it. They may infer it, from what he has said, but if his expressions are attended to, it will be found that he does not assert it.

Fox, Pref.  
p. xxvi.

Mr. Fox, suspecting Macpherson's extracts, thought it necessary, when at Paris in 1802, to make enquiries about the MSS. which had belonged to the Scotch College. Principal Gordon, and other persons belonging to the College, gave him information. And afterwards, when making further researches, and before he had



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used the authorities he had possessed himself of, he says in a private letter, that he had detected an impudent imposture of Macpherson, and learnt from undoubted authority that he had never seen the original journal of James the Second, from which he would have it supposed he had made those extracts, but only a narrative drawn up from that journal. Mr. Rose shortly observes upon this, that "no proof is offered" of these assertions; but he perhaps does not recollect, that this statement is made in a private letter; not in the historical work; and Mr. Fox being satisfied in his own mind, and desirous to communicate that satisfaction to his friend, might not think it necessary to trouble him with proofs of the facts stated. But Mr. Rose is rather precipitate, when he says boldly, "no proof is offered," for in the letter, Mr. Fox appeals to the internal evidence of the extracts themselves, manifestly made not from a journal but from a narrative, corroborated by the principal persons of the College, from whom there is no room to doubt, that Mr. Fox obtained the information, when he was upon the spot.

Mr. Rose, who is accustomed to official accuracy, and had just found fault with Mr. Fox for the supposed making of an assertion without proving it, asserts that "the papers by the common courtesy of the College were accessible to any one who went to Paris." But he

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brings no proof of the assertion, which we must suppose under the word 'Papers,' to include both the Journal, and the Narrative, unless his assertion that "Mr. Hume "saw *both*, and has given a short sketch of the MS. "of King James, as far as relates to the schemes in "the alliance with France," may deserve that appellation. For this short sketch we are referred to a note, at page four of the eighth volume of the History of England, in which Mr. Hume certainly describes himself as, through the urbanity and candour of the principal of the College, permitted to inspect the Memoirs of King James written by himself, but, as he describes them to be in *Folio* volumes, it is evident that he had not access to the whole, even of the Memoirs, which, in Mr. Fox's List, \* are stated to have consisted of four Volumes folio, and six Volumes *Quarto*. From the books which he saw, he made some extracts, relating to the first secret treaty of Charles II., but gives no sketch of any other schemes, or alliances with France. Hume only mentions having seen the Memoirs in folio, written with James's own hand, so that he excludes

Fox, Pref.  
p. xxv.

\* We are told by the writer in the British Critic before cited, that there was in the Scotch College at Paris, besides the papers mentioned in this list, a box, or casket of most secret papers, which, by direction of James himself, was not to be opened until the expiration of a century from the time when it was deposited there; and also the copy of a plan for his future government in case he should be restored, which has been mentioned in a former note,

all idea of his having seen the narrative, yet Mr. Rose boldly asserts that he saw both. But supposing it to be proved, that Mr. Hume was admitted to a perusal of the original Memoirs, it would be no proof that every body else had the same privilege. Reduced to the form of a syllogism, Mr. Rose's conclusive logic would stand thus. Mr. Hume was admitted to see the Memoirs of James II.—Mr. Hume was a man,—therefore all men were admitted to see them. But as Mr. Hume obtained this inspection, only through the urbanity and candour of the principal, it should rather seem that it was not an indulgence permitted indiscriminately to every visitant.

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Rose, p. 149.

With a lively burst of indignation, Mr. Rose turns to the contemplation of the conduct of Charles II. and James II. respecting their connections with France. "Every native of Great Britain," says he, "carrying on a clandestine correspondence with a foreign power, in matters touching the interests of Great Britain, is *prima facie* guilty of a great moral, as well as political crime. If a subject, he is a traitor to his King and his Country; *if a Monarch, he is a traitor to the crown which he wears, and to the empire which he governs.* There may by possibility be circumstances to extenuate the former; there can be none to lessen our detestation of the latter." Let the reader now compare these sentiments.

Disrespectful  
language of  
Mr. Rose,  
concerning  
monarchs.

Rose, p. 149.



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with those of Mr. Fox, respecting Charles I. and Charles II., which Mr. Rose has censured with so much acrimony, in the earlier part of his work, and then let him point out any passage in Mr. Fox's Work, in which crowned heads are treated with less ceremony, or more offensive language is applied to them. If Mr. Fox is to be stigmatized, as partial to a republican form of government, because he justly gives to a restorer of monarchy, the epithets of mean and base, how much more deeply rooted, it might be argued by Mr. Rose, must be the hatred of monarchy in his breast, who can describe a King as a great criminal, "a traitor" to his crown, and his empire, and an object of unbounded and unpalliated detestation.

How far Barillon's letters  
valuable.  
Rose, 150.

In the next paragraph, Mr. Rose will probably disappoint the just expectations of his readers, for it commences, as if intended to prove from the correspondence of Barillon, that Charles and James were the detestable traitors, he had just before described them to be; but the argument ends in a weak attempt, to prove what had never been disputed, that the letters alluded to, must be uniformly rejected or admitted; not admitted against the King, and rejected against his opponents; and we are in a manner, not very easily to be comprehended, led into the discussion, of how far the charges against Russell and Sidney, for having

received money from Barillon are substantiated. Against those, who have argued in defence of the characters of those great men, that the letters themselves were not authentic, Mr. Fox's expression (as taken from a private letter, not from his Historical Work) is cited, that "They were worth their weight in gold;" and afterwards, Mr. Rose observes, that Mr. Fox could hardly be aware, how Barillon's testimony "bore on the character of these two men, on whom he bestows great and just eulogiums, when thinking it useful in support of a position he wished to maintain, he appreciated the value of Barillon's Letters so highly as we have observed, and added that his studies at Paris 'Had been useful beyond what he could describe.'" Little could Mr. Rose know of the mind of Mr. Fox, if he supposed, that because he had bestowed high encomiums, upon two great political characters, he could be induced, wrongfully to depreciate the moral worth of any other man, in order to preserve to them a fame which they had not merited; and still less could he be acquainted with that mind, if he conceived, that in order to support a position he wished to maintain, he could be induced to appreciate the value of any letters, beyond what in his opinion justly belonged to them. If he had not thought them highly valuable, no power on earth could have influenced him to have said so.

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But though Barillon's Letters, as to their usefulness, stood high in the estimation of Mr. Fox, and he entertained no doubt of their authenticity, yet it does not follow, that he therefore thought them entitled to full credit upon all subjects, and upon all occasions; and still less that he had an exalted opinion of the moral character of the writer. For instance, he might trust the intelligence given to the French King, in all points, except those, in which it was the interest of his ambassador to deceive him. That Mr. Fox did suspect the honesty of Barillon in money matters is most clear; and that he was persuaded that he had accumulated a large fortune, during his residence here, is highly probable. Mr. Rose, therefore, is not justified, in assuming that, because Mr. Fox said, that these letters, "were worth their weight in gold," he believed every word in them to be true. It would be sufficient that he conceived they furnished in general, a very valuable accession to our historical materials, and were to be trusted in all cases, except those, in which the writer might have an interest to deceive. Mr. Fox has not applauded the minute accuracy of Barillon; and it is admitted, that his general statements may be relied upon.

Rose, p. 155.

Bill for preservation of the person of James II.

At the conclusion of this section, Mr. Rose manifests pretty strongly, that in writing his observations upon the Historical Work, he had not been able to withstand



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the influence of those party feelings, in which he had been so long accustomed to indulge. For, in terms of displeasure, he reprobates the supposition of Mr. Fox, that some measures, adopted in recent times, were of a similar nature with the provisions in the Bill, for the preservation of his Majesty's person, introduced into the House of Commons, upon the news of Monmouth's landing, and copied in the appendix to the Historical Work. Here we shall follow the example of Mr. Rose, who has purposely avoided entering into any discussion, concerning the expediency of those measures. The object of this work, is not a general defence of the political conduct, or tenets of Mr. Fox; or the less pleasant task of attacking those of his opponents. Mr. Rose, however, in his rash zeal to support the measures of his friend, thinks himself called upon to defend the bill for the preservation of the person of James II. and says, "The treasons defined by the bill, as originally brought in, did not differ essentially from those previously established by the laws of England." And to prove this, he asserts, that "The substantive acts," as he expresses it, "of compassing, or imagining the death, or destruction, or bodily harm tending to the death or destruction, maim, wounding, or imprisonment of the King; or to deprive him of, or to depose him from the crown; or to levy war against him, or to stir foreigners to invade the kingdom, are certainly treasons, within the most limited construction of the 25th

Rose, p. 155.

Materially altered the law concerning treasons.

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“Edward III.” It is unnecessary to examine minutely, every branch of this most extraordinary proposition, but for the satisfaction of the reader, we will select one of the treasons included in the bill, and mentioned by Mr. Rose, namely, the compassing to levy war against the king, and examine, whether it was made a substantive act of high treason, by the statute of the 25. Edward III. To prove the affirmative, Mr. Rose relies on the authority of Lord Coke, and Mr. Justice Blackstone, but it is clear, that he has not read the passages he refers to in the works of either. The former expressly says, “A compassing or conspiracy to levy war is no treason, for there must be a levying of war *de facto*” the latter, “a bare conspiracy to levy war, does not amount to this species of treason.” The statute of the 13. Elizabeth, was passed in order, among other things, to obviate this supposed defect in the law; and compassing to levy war, declared by printing, writing, or advised speaking, was made high treason, during the life of the Queen. The 13. Charles II. was made to give a similar protection to the then reigning Monarch. This latter statute was in force, when Lord Russell was brought to trial, but the time limited for prosecutions under it was expired; and one great objection to his execution, which was founded upon the statute of 25. Edward III., was, that he was not attainted by direct evidence, of any of the treasons enumerated in that statute, but upon the

proof of facts, which could only, by a forced construction of the statute, be received to support the charge\*.

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The earliest of the cases mentioned at Lord Russell's trial, as authorities to support the proceedings against him, was in the reign of Queen Elizabeth. And as the trial of Lord Russell occasioned much discussion, and excited a great ferment in the kingdom, it is not surprising, that James should be anxious to introduce a statute, similar to that which had protected the person and throne of his brother, and thereby put an end at least during his life, to all those doubts, which had been unfortunately so recently raised, or revived. The temper of the Parliament, at his accession, was not favourable to the design, but the moment of Monmouth's invasion, when the standard of rebellion was raised, and

\* The preamble of the act passed 1. W. & M. for annulling his attainder, recites, that, "By undue, and illegal returns of jurors, "having been refused his lawful challenges to the said jurors for "want of freehold, and *by partial and unjust constructions of law;* "wrongfully convicted, attainted, and executed of high treason," &c. And the Earl of Warrington, in his charge to the Grand Jury at the Quarter Sessions of the county of Chester, 11th October, 1692, said that in the debate upon this bill in the House of Lords, the Lords were unanimously of opinion that a conspiracy to levy war is not treason, unless the war be actually levied; "and upon that ground chiefly they passed the bill;" he called it "a far-fetched opinion," and said it "prevailed in the late times, whereby several worthy men were murdered".—Collection of State Tracts, published in the reign of King William III. Vol. II. p. 206.



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the Parliament was stimulated with an uncommon degree of ardour in the royal cause, seemed propitious, and this bill, for preservation of the person of the King, was brought in.

We forbear to make any observations upon the trial of Lord Russell, it has been alluded to, only to shew that Mr. Rose must be mistaken, when he includes in his general proposition an assertion, that the conspiring to levy war against the King, is a substantive act of high treason, within the statute of Edward III. Lord Coke *Inst. ii. p. 14.* was of opinion, that an offence, falling under one branch of that statute, could not be made an overt act of a different species of treason; and Lord Hale, was, at one period of his life, of the same opinion, but, afterwards altered it, so that at the time of Lord Russell's trial, the principle was not, perhaps, considered as settled. Mr. Justice Foster, however says, it is now no longer to be doubted, and in daily experience, and mentions, as an instance, that conspiring to levy war is an overt act of compassing the King's death, under certain limitations. The law, upon this subject, was clearly laid down by Lord Chief Justice Holt in Sir John Friend's case, and has been uniformly adopted ever since, particularly by Lord Mansfield in Lord George Gordon's trial, and Lord Chief Justice Eyre in Hardy's. At the time, when the bill in question was brought into the House of Commons, the construction of the sta-

*Sum. p. 13.*

*H. H. i. p. 119.*

*Cr. Law,  
p. 197.*

*St. Tr. iv. p. 626.*

tute of 25. Edward III. was the same, as in more recent times, and a war levied against the King, without any design upon his person, or endangering it, for example, where persons assembled, and acted with force in opposition to some law, which they wished to have repealed, or to remove inclosures, or to expel strangers, or to pull down bawdy houses, was then, and is now treason, but not conspiring to levy war for any of these purposes. But if the jury find upon the evidence, that there is a purpose and design, by levying war, to destroy the King, or to depose him from his Throne, or restrain him, or have any power over him, the conspiring to levy war, for such purpose is now settled to be a compassing of the King's death. Upon this subject, Lord Chief Justice Holt says, " Now, because a man designs the death, " deposition, or destruction of the King, and to that " design, agrees, and consults to levy war, that that " should not be high treason, if a war is not, actually " levied, is a very strange doctrine, and the contrary, " has always been held to be law."

If, then, a bare conspiracy to levy war against the King was not, *in all cases*, a substantive act of high treason, the bill for the preservation of the person of James II. as originally brought in, being intended to make it one, did differ essentially from the previously established law of England; and the assertion of Mr. Rose has been hazarded without due consideration. The

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36. George III. c. 7. which we shall shew hereafter, was formed upon the same model, is in this respect more defined, and limited in its provisions; for that statute makes a conspiracy to levy war against the King, a substantive act of high treason, not in all cases indiscriminately, but only when the object is, by force or constraint, to compel the King to change "his measures, or councils, or to put any force or restraint upon, or to intimidate, or overawe both Houses, or either House of Parliament."

The bill in question, was calculated to make other material alterations in the law of England, respecting treasons, which we will not trouble the reader with the discussion of. But we may be allowed to ask, if it is contended that it was not the object of the bill to make any material alteration in the law, for what purpose was it brought in? and for what reason were some of its provisions again discussed, and passed into an act, so lately as in the year 1795? No man, though he has made the law the study of his life, can be secure from being sometimes mistaken. Mr. Rose, has boasted of the detection of two blunders even in Lord Coke's work; no wonder then, that he himself, who never studied it as a science, should fall into error. In the present instance, Mr. Fox has stated the purport of the bill correctly, but Mr. Rose, endeavouring to inculcate him, has clearly shewn that he himself has not even a superficial knowledge of the subject.



It is curious to observe the eagerness, with which Mr. Rose seeks for an opportunity of attacking Bishop Burnet; Mr. Fox having stated, and proved, in a note, that Ralph had unjustly accused Burnet of inaccuracy, concerning this bill for the preservation of his Majesty's person, and government, Mr. Rose observes, that the fault of inaccuracy "was justly imputable to both" these authors, but the latter has most to answer for. "Burnet calls it, a bill for declaring treasons. Ralph" says there was no such bill, Not finding the title "in the journals, nor any such act among the statutes, nor a syllable in the debates about it, it is" not very surprising he should fall into the mistake "he did." Mr. Rose surely does not mean to contend that a mistake in the title of a bill, is a greater inaccuracy, than an unfounded denial of its existence. One person mistakes the name of a thing, another positively denies a fact, yet according to this argument, the former would have most to answer for. The apology made for Mr. Ralph is, however, worthy of further observation. The statute book we put out of the question, for, as this bill never was passed into a law, it would be absurd to suppose that Ralph would seek it there. And with respect to the Journals, Mr. Rose must know that, strictly speaking, a bill has no title in its early stages, and it is not uncommon for bills to be described, in the Journals, while going through the House, by names or titles different from those, which

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Bishop Burnet's description of the bill defended.

Rose, p. 156.

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are ultimately given to them. The charge against Burnet amounts to no more than this, that he has described a bill by its substance, and in his own words, instead of copying the exact description given of it in the Journals, which he might not have at hand to refer to. That he has described it with sufficient precision for all popular purposes can admit of little doubt, and still less can there exist a doubt, that a reference to the Journals, accompanied with a wish to find it there, must necessarily have led Ralph to the discovery of this bill for the preservation of the King's person, which was the only one before that parliament, to which Burnet's description could by possibility apply. Indeed he was aware of that bill, but did not take the trouble to examine its contents. Besides the number of bills brought in during that session were so few in number, that it would not have been a severe task upon his industry to have examined them all. The truth is, that those statutes, which are of the greatest utility, or most frequently cited in courts of justice, acquire popular names, by which they are known, and cited, and which almost supersede the use of their formal titles. We may give as an instance, the Navigation Act, and two others, which Mr. Rose himself has mentioned in his second section, under the denominations of the Habeas Corpus Act, and the Test Act. And what is remarkable, the distinguishing words used by him make no part of the regular titles annexed to them by the legislature, and inserted.

in the statute book. If either Mr. Rose, or Mr. Ralph had known the years, in which these acts had respectively passed, and the substance of their contents, would they have experienced any considerable difficulty in discovering the acts themselves? But the description of the bill, in Burnet, is more particular than Mr. Rose (who probably did not refer to his book, but was satisfied with what he found in Mr. Fox's note) is pleased to suppose, for it is described as an act projected, "*declaring* *treasons during that reign, by which words were to be made treason.*" The result of this attack upon Burnet is, that there can be no question, as between Ralph and him, which *has most to answer for*. Ralph is admitted by Mr. Rose to have been mistaken, and Burnet turns out to be accurate.

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IV.*ante*. p. 235.

Burn. i. p. 639.

Since the publication of Lord Lonsdale's Memoir, which Mr. Rose could not be unacquainted with, for he has cited it, we are enabled to make out the history of the proceedings on this bill, with a considerable degree of precision. From the Journals, it appears that on the 13th of June, 1685, the account of Monmouth's landing, was communicated to the House of Commons, and it was referred to the same committee, which had been appointed to draw up an address, to prepare, and bring in a bill, for preservation of his Majesty's royal person, and government, and also a bill for the attainder of the Duke of Monmouth. On the 15th in-

History of the  
Bill.Journ. ix.  
p. 735.



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IV.Journ. ix.  
p. 737.

Ib. p. 741.

Ib. p. 749, 750.

Ibid.

structions were given to the committee, to add a clause declaring it high treason, for any person to assert the legitimacy of the Duke of Monmouth, or his title, or pretence to the crown. On the 19th, it was read a first and second time, and committed to a committee of the whole House, and at that date, consisted we presume, of the bill as it now stands in Mr. Fox's appendix, except the fourth, fifth, and eighth clauses. On the 26th the bill was in a committee of the whole House, and the speaker having resumed the chair, a select committee, consisting of Mr. Serjeant Maynard, Mr. Solicitor General, (Finch) Sir Christopher Musgrave, Sir John Lowther, (afterwards Earl of Lonsdale, and author of the memoir) Mr. North, Sir Thomas Meres, Sir Richard Temple, Mr. Etherick, Mr. Tipping and Doctor Brady, and they or any three of them were empowered, to prepare and bring in a clause, to be added to the bill, that none should move in either House of Parliament, for alteration of the succession of the crown in the right line. On the 27th the clause was reported from the committee, and ordered to lie upon the table; and in the afternoon of the same day, Sir Edward Herbert reported the bill from the committee of the whole House, with some amendments to be made, and a proviso to be added, which were agreed to, and the proviso ordered to make part of the bill. This proviso now makes the eighth clause of the copy of the bill. On the 29th of June, the ingrossed bill, after an amendment had been made at the

table, was passed, with the title of, "an Act for the  
 "better preservation of his Majesty's person, and govern-  
 "ment," and ordered to be carried up to the Lords,  
 which was done the next day. It was read a first time  
 in the Lords, on the 30th of June, and ordered to be read  
 a second time on the morrow; it does not appear to have  
 been read a second time, and on the 2nd of July, both  
 Houses adjourned to the 4th of August, by the King's  
 orders, and the bill was heard of no more.

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Lords' Journ.  
 xiv. p. 68, &c.

We shall have occasion to notice hereafter, when we  
 proceed to examine at length, the heavy charges made  
 against the veracity of Bishop Burnet, by Mr. Rose, how  
 little the Journals of the House of Commons, are to be  
 depended upon, in disputed questions, and here a re-  
 markable instance of inaccuracy occurs, for we have no  
 mention made of the introduction of two clauses, viz. the  
 fourth, and fifth, now standing as parts of the bill, and  
 mentioned, and their history given by Lord Lonsdale. In-  
 deed the Journal is so drawn up, as to preclude the suppo-  
 sition that they could have been added, after the bill was  
 first brought in. For the clause about Monmouth, which  
 was added before the bill was read a first time, is spe-  
 cifically mentioned, and that about the succession was  
 added by a committee, nominated for the sole propose,  
 as the Journal states, of drawing it up and bringing it  
 in, so that, they had no power to draw up, or propose  
 any other. Amendments, it is true, are mentioned to have

Journals of  
 Parliament  
 not to be re-  
 lied upon.

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been made in the committee of the whole House, and one amendment in the House itself, but provisoes, or fresh clauses are not usually described as mere amendments, and when it is said, that a committee reported one proviso, it cannot be conceived, that two others reported also by them, were either altogether omitted, or counted only for amendments.

However confused or incorrect, the entries in the Journals, concerning this bill may be, we are fortunately possessed of an historical account of it, drawn up by the first Earl of Lonsdale, of the authenticity of which there can be no suspicion; he was united with the Whigs, and deservedly stood high in their confidence, he was not only well acquainted with their general designs, and advised with upon all their measures, but he was also one of the before-mentioned select committee, appointed in the progress of this bill, and an attentive observer of all that passed concerning it. As his memoir of the reign of James II. is not in general circulation, \* I shall not scruple to make an extract of some length from it, containing the history of this bill, in its passage through the House of Commons, he says, " The second thing, wherein they seemed to use caution was in a bill,

Lord Lonsdale's Memoir,  
p. 8 & 9.

\* It has been generously printed at the expence of the present Earl of Lonsdale, and distributed to his friends; but not published for sale.



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“ brought into the hous ffor the preservation of the  
“ King’s person, the meaning of which was to make  
“ words treason. Against which it was objected, that  
“ the wisdom of our ancestors had always been testified  
“ in their caution in not admitting any such president;  
“ that words were easilie misconstrued, and easilie mis-  
“ understood; that before the statute of Edward III., it was  
“ become a difficult matter to say what was treason, and  
“ what was not; that, therefore, that act was made, and was  
“ thought a sufficient securitie against all treasons, and had  
“ well provided for the safetie of the King’s person, and  
“ goverment, and had amply enough enumerated the se-  
“ verall sorts of treasons; and that if there were anie  
“ extraordinarie case happened, there was a power  
“ lodged in the Parliament by that statute to judge of  
“ it. That it would onlie tend to the encouraging perju-  
“ rie, when men, either through corruption or revenge,  
“ might so easilie doe mischeif, and be so hardlie proved  
“ perjured. To this t’was answered, that men might as  
“ easilie swear to ffacts that were never done, as to words  
“ that were never spoke. To which it was replied, that that  
“ appeared otherways in holie writt in the case of our Sa-  
“ viour, against whom the ffals witnesses said, that he had  
“ said, that he would destroy the temple, and in three day  
“ would build it up again; whereas the words he spake  
“ were, destroy this temple, and in three days I will rais-  
“ it up again. Where the mistake of the temple ffor this  
“ temple, ffor he spoke of the temple of his bodie, and

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" the word build instead of the word rais made the  
 " crime according to the Jewish Law. By which,  
 " t'was plain that ev'erie speech not fitted to the capa-  
 " citie of the hearers, might easilie be subject to a  
 " criminall construction, that private conversation would  
 " become suspected, and therefore that the law did  
 " wiselie provide, that there should be an overt act  
 " to make a treason, which is the highest punishment  
 " in the law. Att last, becaus they would not totallie  
 " reject a matter, that had but the pretence of securing  
 " the King's person, they referred it to a comittee to  
 " draw up some provisoes to the bill, that might se-  
 " cure the subject as much as could be. I was one  
 " of that comittee, and there were two provisoes agreed  
 " upon. The one was, that no preaching or teaching  
 " against the errours of Rome, in defence of the pro-  
 " testant religion, should be construed to be within that  
 " act. The second was, that all informations within  
 " that statute should be made within forty eight howers.  
 " With these two provisoes, the fforce of it was so  
 " mutilated, that it was not thought worth having;  
 " and so it died." This quotation makes it highly pro-  
 " bable, that there is a mistake in the entries concerning  
 " this bill, in the Journals of the House of Commons.  
 " The noble Earl (then Sir John Lowther) could not be  
 " mistaken in the fact, that two provisoes were agreed upon  
 " in the committee, or in the description of the provisoes  
 " themselves. The probability therefore is, that the com-

mittee had larger powers, than are mentioned in the Journals. And that it drew up and reported, not one proviso, but three, all of which were afterwards adopted by the House, and incorporated into the bill.

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To return, Mr. Rose says, "On the main point, however, Ralph was correct in asserting, that if any clause to the effect stated was offered, it was by way of supplement to the bill," and he gives a reason, of which the reader will probably not easily see the application, "because both the clauses, objected to by Mr. Fox, were certainly added to the bill, after it was in the House of Commons." One of the clauses objected to by Mr. Fox, namely, that respecting Monmouth, was in the bill when presented to the House, and read a first time; the other clause, concerning the succession, was certainly added afterwards. But let it be granted, that both the clauses were added after the bill was introduced, Mr. Rose has still to shew, in what manner that fact can affect the passages in Burnet, or prove that the clause, which Ralph alludes to, was offered by way of supplement, i. e. as a clause to be added after the bill was brought in. It happens, that Mr. Rose, and Ralph are, here, both mistaken, and Bishop Burnet perfectly right, for he speaks only of the first clause in the bill, and that clause was undoubtedly in the original draft, and could in no sense of the word be a supplement to it. He was writing

Ralph  
inaccurate.  
Rose, p. 157.



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correctly concerning an event, with which he was perfectly well acquainted, while Mr. Rose, and Mr. Ralph, from a want of knowledge upon the subject, have been finding fault without any reason.

Burnet again  
correct.

Rose, p. 157.

But Mr. Rose has not yet finished with the Bishop, he attacks him for stating, that the bill was opposed by Serjeant Maynard, which he says " may be true, but " no trace of a discussion can any where be found, and " the serjeant was the member first named to bring in " the clause" respecting the succession. The publication of Lord Lonsdale's Memoir has removed all difficulty, and demonstrated that the Bishop, even when he stands alone, and unsupported by contemporary historians, is deserving of credit. For in the quotation made in a former page, the noble historian not only informs us, that the first clause was discussed in the House of Commons, but also gives us the substance of the arguments used on both sides. We are under still greater obligations to the noble author, for he accounts for a whig being named first upon the committee, and for a member, who had opposed the bill in its original form, taking an active part in the introduction of the additional clauses. It is not improbable that the whigs upon that committee, were induced to consent to the resolutions concerning the succession, by way of compromise, in order to obtain other concessions, which ultimately occasioned the loss of the bill altogether.

A strange fatality seems to attend Mr. Rose, for whenever he strenuously supports the correctness of any particular author, upon a specific point, there is almost constantly discovered some other instance of his being incorrect; here Ralph in the passage, quoted by Mr. Rose, not only unjustly charges Burnet with inaccuracy, but is guilty of that fault himself, when he says, that "this bill never reached the Lords," for it has been shewn, that it not only reached the Lords, but was read a first time in that House, on the 30th of June.

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Ralph again  
inaccurate.

*ante*, p. 229.

The reader may recollect, Mr. Rose's remark, that nothing was said by Mr. Fox to point out the resemblance between certain measures, which had been adopted a few years ago for the public safety, and the provisions of this bill, notwithstanding he had a desire to impress his readers with an opinion that they were of a similar nature. Mr. Fox's supposed omission in this respect, it seems, from the concluding paragraph of the section, now under consideration, did not prevent Mr. Rose from discovering the late acts of Parliament, to which allusion was made. He was a joint Secretary to the Treasury, when the administration, to which he was attached, introduced them to the consideration of the legislature, he was a member of the House of Commons, in which those bills were warmly debated; the duties of his office required from him a constant attendance in that assembly, and a steady attention to its proceedings; and it is not

The bill re-  
sembles a mo-  
dern act.  
Rose, p. 155.

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going too far to presume, that he must have voted in favour of these measures of his friends, and was consulted about them. As Clerk of the Parliament also, the copy of the bill for preservation of the person and government of James the second was in his custody, and his love for antiquities and history, justifies the supposition, that if attachment to his party had not stimulated him to examine this paper, he would not have permitted it to have remained unexplored, or unproduced, if occasion called for it. With some surprize, therefore, we find the following paragraph in his book, "Mr. Fox has not told us for " which of our modern statutes this bill was used as a " model, and it will be difficult for any one to shew such " an instance." We accept his challenge, and let the impartial reader judge between us, whether there is no resemblance between the bill in question, and the following statute; and whether they are not of a similar nature. The modern statute, we fix upon, is the 36. George III. c. 7, which received the royal assent on the 18th of December, 1795, and is entitled, "an act for the " safety and preservation of his Majesty's person, and " government, against treasonable, and seditious practices, " and attempts." This act, when first introduced into the House of Lords, where it originated, bore a much closer resemblance to the bill, so often mentioned, than it now does as printed in the statute book. Several alterations were made in both Houses, and in particular a provision confining the power of instituting prosecutions to the King under his



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sign manual, or to the privy council, by their order, was omitted. But after all the alterations, it is impossible, in the present state of the act, to mistake the model from which it was taken. And the only way, in which this conclusion can be avoided is by resorting to the epicurean hypothesis, and contending that the fortuitous concurrence of atoms may occasionally produce at any distance of time statutes, not only in their general scope, and design resembling each other, but containing provisions not varying in a single word.

Upon a reference to the statute book, and the copy of the bill, many passages not noticed here may be observed in which the resemblance is exact, or easily traced. We shall conclude this section with copying the material part of the first clause of the act of Parliament, by which, among other things, the compassing to levy war in certain cases, and for a time limited, is, contrary to Mr. Rose's assertion, made a substantive treason, in addition to those mentioned in the 25. Edw. 3. The corresponding part of the bill is placed in an opposite column; and the better to direct the attention of the reader, the words which appear to be copied from the bill, are printed in Italics.

Comparison of  
the Bill with  
36 Geo. 3.  
c. 7.

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1. Jac. 2.

36. Geo. 3. c. 7.

A bill for the preservation of the person and government of his gracious Majesty King James the Second.

By this bill it was intended to have been enacted,

*That if any person, or persons whatsoever, after the first day of July, in the year of our Lord one thousand six hundred and eighty-five, during the natural life of our most gracious Sovraigne Lord the King, (whom Almighty God preserve, and bless with a long and prosperous reign, shall, within the realm, or without, compass, imagine, invent, devise, or intend death, or destruction, or any bodily harme, tending to the death, or destruction, maim, or wounding, imprisonment, or restraint of the person of the same our Sovraigne Lord the King,*

An act for safety and preservation of his Majesty's person and government against treasonable and seditious practices and attempts.

By this act it was enacted,

*That if any person, or persons whatsoever, after the day of passing this act, during the natural life of our most gracious Sovereign Lord the King, (whom Almighty God preserve, and bless with a long and prosperous reign,) and untill the end of the next session of Parliament, after a demise of the Crown, shall, within the realm, or without, compass, imagine, invent, devise, or intend death, or destruction, or any bodily harm, tending to the death, or destruction, maiming or wounding, imprisonment, or restraint of the person of the same our Sovereign Lord the King, his*

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*or to deprive, or depose him from the stile, honour, and kingly name of the imperiall crowne of this realm, or of any other his Majesty's dominions, or countries, or to levy war against his Majesty within his realme, or without,*

*or move or stirr any forreigner, or strangers with force, to invade this realm, or any other his Majesties dominions, or countries being under his Majesties obeysance, and such compassings, imaginations, inventions, devices, or intentions, or any of them shall express, utter, or declare, by any printing, writing, preaching,*

*heirs, and successors, or to deprive, or to depose him, or them, from the stile, honour, or kingly name of the imperial crown of this realm, or of any other of his Majesty's dominions, or countries, or to levy war against his Majesty, his heirs, and successors, within this realm, in order by force, or constraint, to compel him or them to change his, or their measures, or councils, or to put any force, or restraint upon, or to intimidate, or overawe both Houses, or either House of Parliament, or to move, or stir any foreigner, or stranger with force, to invade this realm, or any other of his Majesty's dominions, or countries under the obeisance of his Majesty, his heirs, and successors, and such compassing, imagination, inventions, devices, or intentions, or any of them shall express, utter, or declare, by publishing any printing, or*



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or malicious, and advised *writing*, or by any overt act  
speaking, or deed, *being legally convicted*  
*being legally convicted thereof, thereof, &c.*  
&c.

**SECTION THE FIFTH.**

# THE HISTORY OF THE



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## SECTION THE FIFTH.

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THE reigns of Charles the Second and James the Second form a period of the greatest importance to our history, and a competent knowledge of the transactions included in it is necessary, not merely for the proper understanding of subsequent events, but also for the regular development of the principles, on which our present happy constitution is founded. The materials for such a history are numerous, and probably nearly complete, and for them we are indebted, chiefly, to the industry of Sir John Dalrymple, Mr. Macpherson, and Mr. Fox. There is scarcely an intrigue, which they have not brought to light, or a difficulty which baffled the penetration of former writers, which is not now removed. But, as yet, the public has to regret that the full advantage has not been made of these materials, and that the secret transactions of these reigns have not been fully examined.

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No complete History of the reigns of Charles the second, and James the second.



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How far arbitrary power was the object of these Princes.

or satisfactorily explained. Hume could not do it, because these papers were not discovered till after he wrote; Dalrymple, and Macpherson's attempts certainly do not preclude the efforts of others; and Mr. Fox, who had undertaken to write the history of James the Second, was unfortunately cut off before he had completed his plan. The conduct of the royal brothers was generally governed by one of two principles, a love of arbitrary power, or a zeal for the catholic religion. The latter certainly had greater influence over the mind of James, than of Charles, but it may be doubted whether the attachment of both to that religion did not originate in the hope of making it useful in their struggle for power. But that James afterwards became truly zealous in its cause does not admit of dispute. In the two foregoing sections we have proved that Mr. Rose's opinion, however generally sanctioned by historians, that the primary object of James, immediately after his accession to the throne, was the establishment of the catholic church is altogether unfounded. It is our intention here, in addition to the arguments already produced, to give a short sketch of the previous principles, conduct, and designs of these princes, from which it will appear highly improbable that James at that early period could have formed so desperate a project.

That the love of arbitrary power, a desire to become absolute, was a predominating passion in the bosoms of

both Charles and James historians in general are agreed; but, for the perfect understanding of the history of their times, it is highly necessary to inquire whether these unfortunate monarchs grasped at greater power than their predecessors had enjoyed, or confined their wishes to those, which they believed belonged of right to the throne, or were necessary for its security. In other words, the question is, whether the ultimate object of their various acts of tyranny was the unjustifiable increase of their power, or only the safety of their persons, and the stability of their thrones. The degree of guilt to be imputed to them may be very different in one, or other of these cases, in the former, the calamities of their house may be considered as a just punishment for atrocious crimes; in the latter, as the consequence of the improved, and enlightened state of the people, rather than the wanton, or wicked ambition of the monarch.

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The divine right of Kings originally made no part of the law or constitution of England, and our most ancient writers derive the rights to the possession of the crown and its prerogatives from no higher authority than the law\*. Upon this foundation rested the rights of

The divine  
right of Kings  
unknown to the  
Common Law.

\* See Bracton, p. 5. 6. Fleta. p. 17. and Fortescue *de laudibus*, and his Difference between an absolute, and limited monarchy. The following curious case is in the year books. Henry IV. had granted to the rector of Edington and his confreres and their successors, to be exempted from the payment of all taxes, and tallages, which should be

p. 19. H. 6. 62.

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the Sovereigns of England until the Reformation. They claimed to be entrusted with only limited powers, and were contented to be indebted for them to human institutions.

Introduced by  
Henry VIII.  
and made the  
creed of the  
church.

When Henry the Eighth threw off the yoke of the Romish Church, there was no argument, by which he was so closely pressed, or which he found so difficult to answer, as the assumption of a divine right in temporal, as well as spiritual affairs by the Pope over all Sovereign Princes. This usurpation had been submitted to by many Princes on the Continent, and, in former times, by some of his own predecessors. He adopted the only expedient, which could remove the difficulty,

granted by the commonalty, and of all tenths granted by the clergy, together with liberty to appropriate to themselves two parish churches. The legality of this grant was tried in the Exchequer, upon a tenth having been demanded from the rector, and his insisting upon this exemption. It was argued, on one side that the fifteenth was a profit belonging to the King's Court of Parliament, &c. and on the other, that it was not his inheritance, for he had no right to have it, before his people had granted it to him. Fray, Chief Baron, said that the grant was good, and this was a thing in the King at the time of the grant, for the Parliament is the Court of the King, and the highest Court he has, and the law is the most high inheritance, which he has; *for by the law he himself, and his subjects are ruled, and if there was no law, there would be no King, nor no inheritance.* Hody, Chief Justice of the King's Bench, said "the same law which wills that the King shall defend his people, wills that the people shall grant to him of their goods, in aid of that defence, which proves the inheritance." Though the question arose here upon the demand of a tenth, it was argued principally, as if a fifteenth had been demanded.



by usurping the power himself, and claiming not only to be supreme head of his newly erected church, but to be entitled to his crown by divine right, and therefore to have temporal jurisdiction over ecclesiastical persons, as well as laymen. Such is the language of the "Institution for the necessary erudition of a christian man," a book first agreed upon in convocation, and published about 1533, by the King's authority, and sometimes called the Bishop's book. But in another publication in support of the reformation, entitled the Obedience of a Christian Man, the principles to which the King was obliged to have resort, are more fully developed, and from it the following extract is made.

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V.Burn. Hist. of  
Reform. i. 133.

" Here by seest thou, that the Kyng is in this worlde  
 " without lawe, and may at hys luste do-ryght or wronge,  
 " and shall gyve accomptes, but to God onely. Another  
 " conclusyon is this, that no p̃son neyther any degree,  
 " may be exempte from this ordynaunce of God.  
 " Neyther can the professyon of monkes and freres, or  
 " any thyng, that the Pope or Byshoppes can laye for  
 " themselues, except them frō the swerde of ꝑ Emperour  
 " or Kynges, yf they breake ꝑ Lawes. For it is wrytten,  
 " let every soule submytte hym selfe unto the auctorytee  
 " of the hyer powers. Here is no man excepte but all  
 " soules muste obeye. The hyer powers are the Tem-  
 " porall kynges and prynces, unto whom God hath  
 " gyven the swerde to punyshe who soeuer synneth.

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“ God hath not gyuen thē swerdes, to punishe one and  
 “ to let another go fre and to synne unpunyshe. More  
 “ ouer, w<sup>h</sup> what face durste the spirytualtie, which ought  
 “ to be the lyght, and an example of good lyuyng unto  
 “ all other, desyre to synne unpunysshed, or to be  
 “ excepted from trybute, tolle, or custome, that they  
 “ wolde not bear payne with theyr bretherne, unto the  
 “ mayntenaunce of Kynges and officers ordayned of God  
 “ to punyshe synne? there is no power but of God (by  
 “ power understande the auctoritee of Kynges and  
 “ princes). The powers ŷ be ar ordayned of God.  
 “ Who so euer therfore resysteth, resisteth God: yea,  
 “ thoughe he be Pope, Bysshoppe, monke, or frere.  
 “ They ŷ resyste shal receyve unto thēselues dampna-  
 “ tyon. Why? for Gods worde is agaynste them, whiche  
 “ wyll haue all men under the power of ŷ temporall  
 “ swerde.”

Henry secured to himself this usurped authority by several acts of Parliament. The Act of Supremacy, the 26. Hen. 8. c. 1. recognized him as the only supreme head in earth of the Church of England; and the preamble of the 28. Hen. 8. c. 10, an act for extinguishing the authority of the Bishop of Rome, recites, “ whereby  
 “ he” (i. e. the Pope) “did not only rob the King’s Majes-  
 “ ty, being only the supreme head of this his realm of En-  
 “ gland, immediately under God, of his honour, right, and  
 “ preeminence due unto him by the law of God, but spoiled

“ this his realm,” &c. Henry the Eighth did not rest satisfied with having his right sanctioned by the civil authority of his realm, but made it part of the creed of his national church, where it is still found in its articles, injunctions, canons, orders, and rubric.

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The Reformation occasioned a great revolution in the politics of Europe, and the discovery of the Art of Printing, at nearly the same period, not only gave permanency to the changes introduced, but disseminated the principles upon which they were to be defended. Instances occurred of princes remaining catholics, whose subjects had embraced the new religion, and by every detestable mode of persecution exercising the power supposed to be delegated immediately from heaven, or to be conveyed to them through the Pope, the Viceroy of God on earth, to the oppression, or destruction of those, whom it was their duty to have protected. Against this divine right of Kings, Protestant subjects were driven, by necessity, to oppose the right of the people, as the foundation of all temporal power; and in defence of this latter doctrine many able books were printed, and distributed, among others, one entitled *Vindiciæ contra Tyrannos*. The author assumed the feigned name of Stephanus Junius Brutus, but is supposed to have been the celebrated Mornay du Plessis, or Hubert Languet. It was translated into many languages, had a very general circulation upon the continent, and the

Protestants  
abroad assert  
the right of  
the people.



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honour to be noticed here in the famous Oxford Decree in 1683.

Introduced  
into England.

This doctrine soon found its way into England, and though the Protestants here at first supported Henry the Eighth in the assumption of a power, which placed him out of the reach of the anathemas of the Pope, yet they did not forget the principles of their brethren abroad, when it became necessary to resort to them in their own defence against the subsequent tyrannical proceedings of their Sovereigns. The power of Henry was too strong to be resisted with any prospect of success; and Edward the Sixth who succeeded him, wielded his sceptre with so much prudence, as to conciliate his subjects, without yielding any part of the usurpations of his father. Mary's proceedings were of so sanguinary a nature, as to make her reign a system of terror, and her religion an object of fear, and detestation. Elizabeth by the ability, and splendour of her government retained much of that power, which at her succession to the throne was cheerfully yielded to her for the necessary security of her people against foreign invasion; and the fear of a repetition of the scenes of horror, which had disgraced the preceding reign, impelled her people to cling fondly to her throne for protection, and cheerfully to submit to her oppressions.

Was disputed  
under James  
the first.

When the House of Stuart succeeded to the crown of England, James the First assumed in fact, and de-

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fended in argument the divine right, by which his four immediate predecessors had claimed to hold the royal authority. But he was not aware of the alteration, which had gradually taken place in the sentiments, and feelings of the people, and in the relative importance of the House of Commons. Even in Queen Elizabeth's reign, that branch of the legislature had occasionally shewn a disposition to interfere, more than she wished, with the affairs of religion, and state; and if they yielded to her mandates, it was partly from their admiration of the wisdom, and energy of her government, but more from the general persuasion that the property and lives of her people were secure only from her having power to defend them. James the First, in the exercise of what he had been taught to believe were the undoubted prerogatives of his crown, met with a resistance, which he was not prepared to expect, and by his imprudent conduct provoked an opposition, which was a source of misery to, and ended in the final expulsion of the first reigning branch of his descendants. Charles the First, was educated in the highest prerogative doctrines. He was taught that, as the anointed of God, he had a divine right to the throne, and that passive obedience, and non-resistance were the duties of his subjects. In the defence of these doctrines, and what he had been taught to consider as his just rights, he lost his crown and life. Against his opposing and rebellious subjects, he did not conceive himself to be struggling for any

And Charles  
the first.

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new accession of power, but for the preservation of that, which had belonged to his predecessors, and which none but rebels, and traitors could withhold, or wish to take from him.

Charles and James, in exile, thought well of catholics, and ill of sectaries.

Charles the Second and his brother, the Duke of York, fled to the continent. Their father had been murdered, his throne overturned, his family driven from their country, and they themselves become poor and friendless exiles. In such a calamitous state, it is not wonderful, that actuated by the most honourable feelings wound up to the highest pitch of sensibility, they should sometimes form hasty, and not always just opinions of the conduct both of their friends and foes, and occasionally attribute to whole classes of people, the vices or virtues of those individuals who had best served, or most molested their family or themselves. Because some catholics had continued faithful subjects in all emergencies to Charles the First, and others had essentially assisted in the preservation, and escape of his successor, these Princes naturally felt a strong predilection for all professing that religion; and the execution of their father, by a few of the independents, under the orders of Cromwell, fixed in their minds an indelible stain upon sectaries in general, and of all denominations. The Parliament, the Army, and Cromwell were, in contemplation of the royal brothers, involved in one common guilt, all equally traitors, and rebels. The royal exiles beheld, with indignation,



and horror, the governing power wrested forcibly from the true owner, and exercised by persons who had no title to it, but their crimes. If any thing could add to the poignancy of those feelings, with which they bid adieu to their country, or was necessary to give to these impressions the most complete and permanent possession of their minds, it would be found in the situation, to which they were afterwards unfortunately reduced, in the company they necessarily associated with, in the conversation they were constantly parties to, and the spirit it became their policy to excite, and nourish in their adherents, during their exile.

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The reformation had divided the powers of Europe, into two great parties, the Catholic, and the Protestant. The weakness of the latter had made it necessary, to form a general league for the defence of all professing that faith, and the catholics had adopted the same line of policy to stop the further progress of heresy, though the union among them was perhaps not so strong, or general, as among the protestants. The two contending parties, at the time we are now treating of, supported the profession of their respective tenets, with a zeal and energy, unknown in the subsequent history of the continent.

The Continent  
divided into  
Catholics and  
Protestants.

The protestants of England had also been divided into two distinct sects or parties, the members of the esta-

Puritans in  
England,

SECTION  
V.

connected  
with Protest-  
ants abroad.

blished church, and the puritans: the latter objected to the establishment, chiefly, for retaining in its discipline, too many of the objectionable ceremonies of popery, and as the greater part of the protestants upon the continent, had embraced tenets congenial with theirs, they fled from persecution in their own country, and sought an asylum there. Afterwards, when permitted to return in safety, they still continued to keep up a correspondence with their former friends. In the reign of Charles the First, the rash measures of the court, and folly of Archbishop Laud gave the puritans an opportunity to charge the King, and the episcopal Church with an inclination to popery, and to spread that report through the protestant states abroad. In the eventful period which followed, the protestants of the continent, generally attached to the puritan cause, expressed their wishes for the prosperity, first of those, who had taken arms against the King, and afterwards for those, who usurped the government.

Catholics  
would not  
assist Charles,  
unless he  
changed his  
religion.

This state of affairs on the continent was peculiarly distressing to the royal brothers, for they could expect no assistance from the protestants, and the catholics could not trust them. Princes of the latter persuasion might reasonably be expected to hesitate about granting succour to a heretical King, whose religion, in case he should be restored, would naturally lead him to take his station among their enemies. Besides, they

might hope, by reducing him to still greater distress, to compel him to change his religion, and submit to join their league. Accordingly Lord Clarendon, describing the difficulties of Charles to find a secure place of retreat, at the time when Cromwell was negotiating a treaty with France, says, "the protestants, in most places, expressed much more inclination to his rebels, than to him. The roman catholics looked upon him as in so desperate a condition, that he would in a short time be necessitated to throw himself into their arms, by changing his religion, *without which they generally declared, they would never give him the least assistance.*" At this period, the situation of Charles was most distressing; the noble person, from whose history this passage is extracted, had strongly and frequently inculcated upon his mind, what his own observations had prepared him to believe, that the foreign protestants were generally his enemies, while the catholic princes made his conversion the condition, on which alone they would give him any assistance, and his mother was persuaded that, unless he complied, he had no possible chance of ever possessing his throne.

Moreover, he was prohibited from entering Holland, and expected every moment that the Court of France would be compelled to drive him from its dominions, if not give up his person. In these melancholy circumstances it would not excite much surprize, if he had

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V.Clar. Hist.  
ii. 504.Whether  
Charles was  
converted be-  
fore he left  
Paris.



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yielded to necessity, and embraced the catholic faith. If we may believe father Huddleston, his faith had been shaken, so early as the year 1651, after the defeat at Worcester; when he found an asylum at Mr. Whitgrave's house, at Mosely, in Staffordshire, where Mr. Huddleston resided, and had a chamber. There the King spent much of his time, perusing several of his books, and among others the manuscript, afterwards printed, of a Short and plain way to the faith and church; of which he said, "I have not seen any thing more plain and clear upon this subject: the arguments here drawn from succession are so conclusive, I do not conceive how they can be denied." Burnet supposes he was converted about 1653, before he left Paris, and says that the Cardinal de Retz was in the secret, and Lord Aubigny had a great hand in it, and that Chancellor Hyde had some suspicion, but never was thoroughly satisfied of it. Oldmixon says, that Sir Allen Brodrick, at his death, declared that Charles made profession of the catholic faith at Fontainebleau, where Sir Allen attended him, before he went to Cologne.

Burn. i. p. 73,  
74.

House of  
Stuart, p. 459.

Rym. Feed.  
xx. p. 740.

If Charles did make profession of the catholic faith about this time, we may presume his immediate object was to secure the asylum in France, which he then enjoyed. But this, Cardinal Mazarin through fear of Cromwell's power, or rather because he could not carry into effect his designs against Flanders, if he had

not peace with the protector, could not advise his Sovereign to permit, and he was obliged to leave the French dominions.

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But it is improbable that Charles should take a step so dangerous to himself, and so highly important to his followers, without some assurance that he should derive advantage from it. If he felt himself obliged to profess the catholic religion, at that moment, from purely conscientious motives, it might be suggested, as a reason for secrecy, that he did not think it prudent to make an avowal of this change when he could not possibly receive any benefit from it. But no part of Charles's character, or act of his life, permits the supposition that zeal for religion ever was the ruling passion of his heart.

Not probable.

The improbability of this conversion is increased by three letters, written a short time only after it must be supposed to have happened by Charles to the Duke of York; in one of which dated Cologne, 10th of November, 1654, after putting the Duke in mind of the commands he had left with him at his going away, and alluding to an attempt of Mr. Montague, who was the Queen's confessor, to pervert him to her religion, and her design for that purpose, he says, "if you hearken to her, or any body else in that matter, you must never think to see England, or me again, and whatsoever mischief shall

Charles's  
Letters.

Kennet, iii.  
293.

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“ fall on mé, or my affairs from this time, I must lay  
 “ all upon you, as being the only cause of it,” and  
 he reminds him of the last words of his deceased father,  
 “ which were to be constant to your religion, and  
 “ never to be shaken in it, which if you do not  
 “ observe, this shall be the last time you will ever hear  
 “ from,” &c.

Macph. Pap.  
 ii. p. 664, 665

Another letter, bearing the same date, begins thus,  
 “ The news I have received from Paris, of the en-  
 “ deavours used to change my brother Harry’s religion,  
 “ troubles me so much, that if I have any thing to  
 “ answer to any of your letters, you must excuse me,  
 “ if I omit it this post. All that I can say at this time  
 “ is, that I conjure you as you love the memory of  
 “ your father, and if you have any care for yourself,  
 “ or kindness for me, to hinder all that lies in your  
 “ power all such practices, without any consideration  
 “ of any person whatever. I have written very home,  
 “ both to the Queen, and my brother about it, and  
 “ I expect that you should second it, as I have said  
 “ to them, with all the arguments you can. For  
 “ neither you nor I were ever so much concerned  
 “ in all respects as we are in this. I am able to say  
 “ no more at this time, but that I am yours.” The  
 third letter is from the King, dated the 19th of January,  
 1655, stating that he had commanded the bearer Lord  
 Ormond to speak to the Duke at large, about his



brother Harry, desiring him to give credit to what he should say, and do all that he should desire of him.

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These letters certainly import that the writer was at that time a zealous protestant, and fully aware of the imminent danger, in which even a brother's conversion would necessarily involve the royal cause.

Some circumstances, mentioned by Lord Clarendon, favour the supposition that Charles was converted (if converted at any time before his restoration) at the period mentioned by Bishop Burnet. He was importuned by Lord Jermyn to attend occasionally at the congregation of the Huguenots, which then assembled at Charenton, in order to keep up his interest with the presbyterian party in England, and attach to him the foreign protestant churches. The Queen Mother, a bigoted Roman Catholic, who had been enjoined by his father not to endeavour to change his religion, did not oppose his going there. She had long been of opinion that, without the assistance of the catholic princes on the continent, the restoration of her son could never be brought about. She wrote a letter to him, when preparing for his expedition to Scotland, declaring her dislike of the treaty he had entered into with the Scotch, by which he had bound himself to take the covenant. She warns him that all the catholic princes will be alarmed, and cautions him that the Scotch deceive him, or will deceive, if they pretend that they can re-establish

The time fixed  
by Burnet  
favourable.

Macph. Pap. li.  
p. 683.

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Distressing  
situation of  
Charles.

him of themselves, *for without the assistance of foreign princes, he will never do any thing.* After the battle of Worcester she was confirmed in her opinion, and though Clarendon does not say she made any efforts herself for the conversion of her son, yet he allows she was very well content, that attempts should be made upon him by others for that purpose, and hoped that his going to an assembly, where a religion was professed which he disliked, \* might tend to give him a distaste for the church, in which he was educated, and turn his thoughts towards her own. At this time, Charles was placed in very delicate circumstances, Lord Jermyn was looking to an union of the

\* In the MS. genealogy of the family of Balcarras, who are heirs male of Lindsay of Edzell, under the head of Alexander is this passage :—" After the death of his father, Charles the Second was invited by the Marquis of Argyll, and his faction, to come to Scotland, and take possession of the crown, this done neither from loyalty nor affection, but to be revenged of the English sectaries, who by means of Cromwell, &c. had taken possession of the government, and had dispersed their presbytery and covenant. Upon the King's arrival from Holland, he found himself entirely a prisoner, and without power. None of the real friends of his family, were allowed to approach him. He attempted to make his escape, and fled from Perth to Clova, but was pursued by Major Montgomery, and brought back again, and was often obliged to sit and hear five or six enthusiastic sermons at a time; where the tyranny of his father, and idolatry of his mother were often mentioned. This made him afterwards often say, that presbytery was a religion not fit for a gentleman."

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protestant powers in his favour, his mother to the support of the catholic princes, and Hyde (then Chancellor of the Exchequer) dissuaded him from going to Charenton, because the Huguenots of France had expressed great malice against the late King, and their ministers had justified the late rebellion in their sermons, and prayed for its success. Besides, their Synod had inveighed against episcopacy, as not being consistent with the protestant religion. In short, he took advantage of Charles's dislike of the presbyterian form of government to prevent his conciliating the Huguenots, and other foreign protestants, and left him no resource, but in the catholics, whose assistance his mother believed, and taught him to believe, could alone be effectual to restore him to his throne, and was to be obtained only by declaring himself of their religion.

The kind and magnificent manner in which he was received at Cologne, on his road to Germany, attached him to the place, and determined him to make it his future residence. But the city was filled with catholics, who had only a few years before expelled the protestants, and a full moiety of the inhabitants were religious persons, and church men. Gratitude was justly excited by favours bestowed at such a critical moment, and his friendly disposition towards the catholic religion was confirmed by the generous attachment of its professors to a fallen and fugitive monarch. In this chosen spot he resided

Residence at  
Cologne.

Clar. Hist.  
ii. p. 541.



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Clar. Hist. ii.  
p. 548.

Application to  
the Pope.

for several years, and certainly the opinion of those, who place his conversion at a later period than Burnet, is countenanced by his silence upon the subject of his religion while he remained here; more especially, as, upon the death of Pope Innocent the Tenth, a negotiation was attempted through the Duke of Newburgh with his successor for pecuniary succour, and also for his interference with the Sovereign Princes on the Continent. The application was made as on behalf of a protestant King, and the answer respecting the money was the same as Pope Innocent the Tenth had given upon a similar occasion, that "he could not with a good conscience" apply the patrimony of the church to the assistance, "and support of heretics," and in other respects, the application was wholly unsuccessful.

Example of  
the Duke of  
Newburgh.

When Charles retired to Cologne he became intimate with the Duke of Newburgh, who resided at Dusseldorp. His father, in order to obtain the assistance of the Emperor, and the King of Spain, against the House of Brandenburg, which was supported by the Prince of Orange and the States, had turned catholic, and thereby secured his possessions. His successful conversion may have made some impression upon the mind of Charles, who felt himself in nearly similar circumstances, and to whom the same expedient had been suggested to relieve him from embarrassment.

Rapin, who gives credit to Burnet's conjecture as to the time of Charles's conversion, observes there are some, "who think themselves better informed," and assign for it the year 1659, alluding probably to Echard, who says he had full reason to believe it was brought about "by the Spaniard at Fontarabia, in the year before his restoration." Cromwell's death, which happened only a few months before that period, had made a material change in the prospects of Charles, and occasioned a temporary revival of his hopes of being supported, and possibly restored by the efforts of his own subjects; but the treachery of Sir Richard Willis, and the defeat of Sir George Booth left him no resources, but from foreign powers. Almost as a last effort of despair, he had resolved to attend the conferences of the French and Spanish Ministers at Fontarabia, and take the chance of being able by his presence to prevail upon them to suggest some measures in his favour. To this step he was encouraged by the Spanish Minister, who seems to have had a sincere desire to render him service, and Clarendon formed sanguine expectations of his success. But the King unaccountably lost so much time, and proceeded by so circuitous a route upon the journey, that he did not arrive at Fontarabia till after the treaty had been concluded. The Spanish Minister, Don Lewis De Haro, received him with great distinction and apparent friendship; but Cardinal Mazarin, unwilling to offend the governing power in England, refused to see him, and

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Some think  
that Charles  
was converted  
at Fontarabia.

Charles's visit  
to Fontarabia  
fruitless.

Macph. Pap. ii.  
p. 667.

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Clar. Hist. iii.  
686.

behaved with great coolness. Upon Don Lewis mentioning the King to the Cardinal, he spoke of his Majesty's affairs as desperate, and advised Don Lewis to be "wary" how he embarked himself in an affair, that had no "foundation; and that it was rather time for all the "catholics to unite to the breaking of the power and "interest of the heretical party, wherever it was, than to "strengthen it, by restoring the King, *except he would "become catholic.*" Charles having arrived too late to have his concerns mentioned in the treaty, even if the Cardinal had been inclined to attend to them, made only a short stay. He arrived at Fontarabia upon the last Tuesday in October, and left it upon the 17th of November, remaining there, probably, not more than three weeks.

Not probable  
he was then  
converted.

It is possible, that by the advice of Don Lewis de Haro, and in hopes of obtaining the good offices of the Cardinal at any price, Charles might have consented to embrace the catholic religion, but it can hardly be conceived that he would have run the risk without some assurance of support; for if it should be afterwards known in England, he was aware (for he had so stated in a letter before mentioned to the Duke some years before) that it would form an insurmountable obstacle to his restoration to the throne. Besides, if his conversion had taken place while he remained there, it would hardly have been possible to prevent the secret from



being divulged, and if promoted, as Echard says, by the Spaniard, it must have been known at least to him.

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Supposing that Charles declared his conversion in hopes of profiting by the hint, given by the Cardinal to Don Lewis, and obtaining the general support of the Catholic Princes, and the good wishes, and zealous service of the Cardinal himself, he was most wretchedly disappointed; for this sacrifice did not even obtain for him an interview with the Cardinal, and neither France, nor Spain afforded him any important succour.

During Charles's excursion to Fontarabia, a report was circulated in England that he had renounced the protestant religion, put away "his protestant council, and "only embraced romanists," but this probably had no reference to what had passed at Fontarabia, for Lord Mordaunt mentions it in a letter, dated at London, 10th November, 1659; and it is not likely that an account of a fact, which had happened at such a distance within the fourteen preceding days, could have found its way to England. This rumour might have arisen from the jealousy of the King's protestant friends at the attention shewn by him to the catholics, and the general anxiety occasioned by the distracted state of the country. It might also have received additional force from the suspicion that he would attend the conferences of the two great catholic powers, and urge his pretensions to their

Report in Eng-  
land.  
Clar. Pap. iii.  
602.

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ministers. And this idle rumour, founded upon no specific fact, may have been the sole foundation for the opinion of Echard before mentioned.

Charles prevents the conversion of his friends.  
Clar. Hist. iii. 689.

Charles, however, received some general assurances of support, and returned to Brussels in good spirits about the end of December. But he found Clarendon and his other friends in despair, their hopes had so often been disappointed, that they looked upon the late change in England with indifference, and some about his person had serious thoughts of leaving the protestant, and adopting the catholic faith, which they and others considered to be the only mode of obtaining the assistance of the catholic princes, who could never be united but on behalf of their religion. And Clarendon says, "if it had not been for the King's own steadiness, of which he gave great indications, men would have been more out of countenance to have owned the faith they were of."

The steadiness of Charles at such a moment, when all hopes of exertion in his favour in England were exhausted, may certainly be urged as a strong argument to prove that his conversion had not yet taken place, and Clarendon seems clearly to be of that opinion. For he describes him as preventing his friends from leaving the protestant religion, when their embracing the catholic faith afforded apparently the only

possible chance of his procuring any assistance. It must however be recollected, that protestant historians are generally agreed, as to his having become a catholic before this period, and the only dispute among them is, whether his conversion happened in 1653, or 1659; nor must it be unnoticed, that, from there being so much of artifice and duplicity in his conduct, it would not be safe to argue from his actions to his motives, as in the case of a more steady and consistent character.

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If we are to assume that his conversion took place at either of the periods just mentioned, or more generally at some time previous to his restoration, it cannot be deemed uncharitable in any one, who has attentively contemplated his character, habits, and pursuits, to assume that the motives of his conduct were more of an interested, than conscientious nature, and that his conversion took place at the moment, when he had the best prospect of assisting his temporal projects by it. At no one period of his future life, does he seem to have been impressed with serious thoughts of religion, or a sincere predilection for the catholic faith, and even upon his death bed, he expressed no anxious wish to be received into its communion, but, quietly submitted to its ordinances when nearly exhausted, at the suggestion of his brother.

Charles felt no  
zeal for re-  
ligion.

We shall prove indisputably in a future part of this section, that Charles never made any formal declaration

If converted,  
Charles kept  
it secret.



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of his conversion, until the last hours of his life. But if he was converted before his restoration, (which seems to be very doubtful) he might determine to keep it secret, so long as he had any prospect of success through the exertions of his own subjects, reserving the public avowal of his faith, till he should be driven by necessity to solicit a general union of the catholic princes in his favour, and attempt the conquest of his kingdom by a foreign force. Subsequent events, however, rendered it unnecessary to have recourse to so desperate an expedient, and the secret was not disclosed till his reign was terminated.

Character of  
Charles.

The personal character of Charles the Second has been generally mistaken, and frequently mis-represented by historians; he pursued such a system of duplicity and meanness, at first to secure his throne, and afterwards to increase his power, that the merit of his private virtues and feelings has been almost forgotten. Yet from these, perhaps, may be obtained the most satisfactory explanation of those transactions, which have been found the most difficult to account for.

His natural disposition seems to have been mild, and his heart capable of steady attachment to those he really loved. Lord Mulgrave, who knew him intimately, says, " That his temper both of body and " mind was admirable, which made him an easy and

“ generous lover, a civil and obliging husband, a friendly  
“ brother, and an indulgent father, and a good natured  
“ master.” He was passionately fond of his sister the  
duchess of Orleans, and his son Monmouth, even after  
he had meditated his ruin, experienced no diminution  
of affection; his firm adherence to his brother, the  
Duke of York, was the principal cause of all the diffi-  
culties which he encountered, in the latter part of  
his reign; and with his last breath, it is said, he recom-  
mended his mistress, and his children to the protection  
of that prince.

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The love of pleasure was in him a predominant  
passion, and sensual indulgences the principal occupa-  
tion of his life; with respect to politics, his indolence  
and natural love of pleasure made him more anxious  
for the tranquil enjoyment of his throne, than solicitous  
about the conditions on which he was permitted to  
hold it. Until the discovery of the Ryehouse Plot, his  
reign was not distinguished by any extraordinary acts  
of severity. And when Lord Dartmouth pressed him,  
with several arguments to save the life of Lord Russell,  
he answered, “ All that is true, but it is as true, that  
“ if I do not take his life, he will soon have mine,”  
which adds his lordship in his MS. note upon Burnet’s  
History, “ would admit of no reply:” and Monmouth  
in his journal records that the King was inclined to  
have saved Lord Russell, and it was through the per-

Dal. Ap. to 1st  
Part, ii. p. 73.Welwood’s  
Mem. p. 275.

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suasion of the Duke of York, that he permitted him to be executed.

Character of  
Clarendon.

Macph. St.  
Pap. i. p. 17.

Change on  
Clarendon's  
fall.

Fox, p. 23.

Upon his restoration, the Earl of Clarendon was intrusted, principally, with the administration of public affairs, and this country owes its liberty to that minister having discouraged a project for settling such a revenue upon the King, as should make him independent of parliaments, but "in all other things," James says in his Diary, "he supported the crown's authority to the height." The general principles of Clarendon and his royal master were the same, they both held the doctrines of passive obedience and non-resistance; they both were attached to an episcopalian form of church government, and both cordially hated and feared the presbyterians, and sectaries of all denominations, whom they considered as rebels and republicans. Charles had been so long accustomed to be governed in his exile by the advice of Clarendon, that he willingly yielded to his guidance afterwards, and during his administration, the security of the throne, rather than the increase of the royal power, seems to have been the principal object of his care. He was disgraced in the end of 1667. Immediately after his fall a change of measures took place. The ministry called the cabal was formed, the Duke of York consulted, and the King begun, as Mr. Fox says, "that career of mis-government, which, that he was able to pursue it to its end, is a disgrace to the history of this country."



The disposition and habits of thinking of the Duke of York were very different from those of his brother, and it is surprizing that he should have gained, and kept for so long a time the powerful ascendancy over his mind, which was visible for the greater part of his reign. Burnet says \* that the king never loved or esteemed him, but stood in awe of him. Charles excelled him in penetration and judgement, and yet, from the natural indolence of his disposition, frequently yielded to his opinion when contrary to his own. The Duke was fond of business and accustomed to examine every thing in its detail; he possessed an eager and ardent mind, and, for want of proper restraint and correction in his youth, was distinguished in his riper years by an obstinate perseverance in whatever resolution he made, or opinion he formed. His education had been much neglected in his father's life, at whose death he was about sixteen years of age; after his escape into France Sir John Berkely, who is described by Burnet as very arbitrary in his temper and notions, and seemed to lean to popery, was appointed his governor. James was the favourite of his mother; and his brother when he went to Scotland placed him under her care with directions to obey her in all things, religion only excepted.

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V.Character of  
the Duke of  
York.Burnet, i.  
p. 196.

Ib. p. 618.

Clar. Hist. iii.  
p. 385.

\* Burnet, knew him personally, and at one time intimately when Duke of York, and is confirmed in almost every particular by Barillon, who was acquainted with him, when he was farther advanced in life, and seated upon the throne.

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Macph. Pap.  
App.ii. p. 664.

There being no fund for a separate establishment for the Duke, he was entirely dependent upon her for support, and she treated him with much severity. The Duke soon grew discontented and, yielding to the natural violence of his disposition, in defiance of her commands set off for Brussels to advise with the Duke of Lorraine, and did not return till he had been also at the Hague, and Breda, where Hyde met him; disappointed in all his prospects, and in a humour to obey his mother's commands and return to her. But Clarendon omits to mention that the Queen mother invited the Duke to come back at the desire of the Queen of France, with the assurance of 12,000 crowns pension for his subsistence. It may be readily believed that this last assurance had more weight with him than any argument which Hyde could possibly use. The want of sensibility in his correspondence, while Duke of York, with the Prince of Orange has been remarked by Dalrymple; the same deficiency was manifested, after he became King, in the satisfaction he expressed at the bloody proceedings of Jeffries after Monmouth's defeat.

In exile, James  
a steady pro-  
testant,  
Dal. Mem. i.  
p. 31.

During the exile of the royal family, the Duke resisted all the efforts of the Queen mother to persuade him to change his religion. And Dalrymple produces, as a strong proof of his attachment to the protestant faith, and the zeal with which he maintained that, as well as every other opinion, his having insisted upon the removal of the



Duke of Gloucester from his mother, lest she should prevail upon him to become a catholic. And James also mentions in his Diary, that he was zealous in hindering his brother the Duke of Gloucester from changing his religion. But it has been shewn in a preceding page, that he acted under the orders of the King upon this occasion.

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V.Macph. Pap. i.  
p. 111.

In the court of Lewis the Fourteenth the calvinists could be no favourites, and James himself told Burnet, that when Cromwell was negotiating with Cardinal Mazarin, "among other prejudices he had at the protestant religion this was one, that both his brother, and himself being in many companies in Paris *incognito*, where they met many protestants, he found they were all alienated from them, and were great admirers of Cromwell, so he believed they were all rebels in their heart."

James believed  
all sectaries  
to be rebels.

Burn. i. p. 73.

The opposition, which his brother met with from the sectaries after his return to England, did not tend to weaken the force of those prejudices, or to give a more favourable opinion of their political principles. And we may assume that after the restoration both the brothers entertained the same decided opinion of the throne having no honest supporters, but catholics and episcopalian protestants, while all other protestants were zealously attached to a republican form of government, and neces-

After the Restoration, both  
Princes hated  
the sectaries  
as rebels.But favoured  
catholics and  
episcopalians.



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Macph. Pap. i.  
p. 17.

sarily enemies to monarchy. It has been mentioned before that Burnet says Lord Clarendon suspected Charles to have embraced the catholic faith, and the diary of James confirms Burnet in some degree, for under the year 1660, he attributes the mistaken conduct of Clarendon to his fear of the King's bringing in the catholic religion. And if he, who was so highly in the confidence of Charles, entertained this apprehension, can it occasion surprize that the fears of his subjects should be awakened, and render them jealous of his conduct!

Charles turns  
to France.

Clarendon's administration, it has been already observed, was succeeded by the cabal, among the members of which it would be difficult to discover any one common principle, either in religion, or politics. By this extraordinary union of popular characters Charles might hope to conciliate the minds of his subjects, reconcile the sectaries to a monarchical form of government, and secure his own peaceable possession of the throne, for it does not appear, as yet, that he had formed any plan for increasing the power of the crown, which trembled upon his brow. Disappointed however in his expectations, and probably acting under the advice of the Duke of York, who had always been the advocate of violent measures, he turned his thoughts to an alliance with France. Of his private wishes in this respect he gave hints to Rouvigny, the French Ambassador, before the triple alliance was formed, but they not being at-

tended to he became a party to that treaty, which was signed on the 23rd of January, 1668. Charles, however, immediately afterwards entered into intrigues for a secret treaty with France through the Duke of Buckingham, and the Duchess of Orleans. To break the triple alliance was an object with France, and Lewis listened to these new proposals. The diary of James the Second leaves no doubt of the quarter, from which the proposition came that Charles should change his religion, which made a principal part of the negotiation, for in 1668 the Duke discoursed with the King, whether he remained in the same mind as to his religion, " he assured him he did, and desired nothing more than to be reconciled." Upon this, the King appointed a private meeting in the Duke's closet with Lord Arundel, Lord Arlington, and Sir Thomas Clifford, (Lord Bellasis is also mentioned, in the first passage quoted) to advise upon the methods to advance the catholic religion in his kingdoms. They met on the 25th of January, 1669. The King declared his mind with great zeal, and the result of the consultation was that the work should be done in conjunction with France, and the Lord Arundel was accordingly sent to treat with the French King. And from a letter, dated 22nd of March, 1669, it is manifest that the treaty had been in agitation before the Duke of York was consulted, and also that, previously to that date, the subject of religion had been mentioned in the negotiation, and the Duke of York on that ac-

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A secret treaty, and Charles's conversion advised by the Duke of York.  
Macph. Pap. i. p. 48. 50.



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count engaged in the management of it, for Charles says, "before this comes to your hands you will clearly see, *upon what score York is come upon the businessse*; and for what reason I desired you not to write to any body, upon the businessse of France. Buckingham knows nothing of King Charles intentions, towards the catholic religion, nor of the person Arundel sends to le Roy," i. e. Louis the Fourteenth. After the change of religion was talked of Buckingham was dropped, and the correspondence carried on by Charles himself with the Duchess of Orleans.

In the account given by Mr. Hume of this treaty from the original diary of James, which he saw in the Scotch College at Paris, a circumstance is mentioned, which it can hardly be conceived Macpherson would have omitted, if he had had access to the same original. He says, that "the King was so zealous a papist that he wept for joy, when he saw the prospect of reuniting his kingdom to the church." This we may presume happened, if it happened at all, at the private meeting held in the Duke's closet, or in the previous conversation he had held with the Duke. This strong expression of zeal corresponds so little with the general character of the King, and is so little to be reconciled with his conduct in the performance of the treaty itself, that we may reasonably doubt the truth of the fact, and set it down as an additional proof of the



little reliance, which can be placed on facts narrated in James's Diary.

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The true object of this negotiation, on the part of Charles, may be discovered from the account of a conversation had on the 12th November, 1669, in which he is described as telling Colbert, that he was "pressed both by his conscience, and by *the confusion which he saw increasing from day to day in his kingdom, to the diminution of his authority*, to declare himself a catholic: and besides "the spiritual advantage he should draw from it, he "believed it to be *the only means of re-establishing the monarchy.*" Colbert, among other arguments, urged that the greater part of the German Princes, being connected with one or other of the Kings would either remain neuter, or join against the Dutch if the war was to begin first, but if the declaration of his religion was made first, neither could be expected from the protestant Kings and Princes for it would give room to the Dutch to make them believe it was a religious quarrel. In the same letter Colbert mentions a free liberty of conscience, as what Charles was to grant. The secret treaty was signed on the 22nd March, 1670, and in the heads of a conference, had between Colbert and Charles, on the 28th of the subsequent September, in which the former urged the latter to enter into the war against Holland before he declared his conversion, one of the beneficial consequences is supposed to be that the presbyterians, and sectaries

True object of  
the secret  
treaty.

Dal. Mem. ii.  
p. 47.

ib. 50.

Dal. Mem. ii.  
p. 52.

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V.Macph. i.  
Pap. i. p. 51.

would be "content with the free exercise of religion, " which you will grant them."—It may be worthy of notice that in the month of July in this year, the Duke of York assured Dr. Owen of his having no bitterness against the nonconformists; he was against all persecution merely for conscience sake, looking on it as an unchristian thing and absolutely against his conscience.

As it is not very likely that Charles's conscience pressed him very hard to become a catholic, we may be justified in assuming that he was actuated by the other motives alluded to in his conversation with Colbert, viz. the re-establishing the monarchy, and increasing his power; and the declaration of his own conversion was to be followed, not with the substitution of a catholic, instead of the protestant establishment, but a free exercise of their respective religions to both catholic and protestant nonconformists, without affecting the rights of the then existing established church. The dangerous consequences expected from the avowal of Charles's conversion, uniformly alluded to by both parties, prove that his situation must have been very desperate indeed when he felt himself compelled to resort to this expedient.

Terms of the  
secret treaty.  
Dal. ii. p. 59.

The treaty after a formal preamble begins in this manner, " the King of Great Britain being convinced " of the truth of the catholic religion, and resolved to

“ declare himself a catholic and be reconciled to the  
 “ church of Rome, thinks the assistance of his most  
 “ Christian Majesty necessary to facilitate his design.  
 “ It is therefore agreed,” &c. It is also stipulated that  
 “ Lewis, in case the subjects of the said Lord the King  
 “ shall not acquiesce with the said declaration, but rebel  
 “ against his said Britannic Majesty, (which cannot be  
 “ believed) &c.” Afterwards the beginning of the article relating to the King’s conversion was altered to this, “ The King of Great Britain, being convinced of  
 “ the truth of the catholic religion, is resolved to reconcile himself to the church of Rome, as soon as the  
 “ affairs of his Kingdom will permit him,” &c.

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V.Dal. Mem. ii.  
66.

In negotiating this treaty Charles seems to have conducted himself with great adroitness, for by making his conversion precede the war, and leaving the declaration of his conversion to his own pleasure, the time for entering into the war became of course dependent upon him. Lewis soon discovered his error, and as his principal object in the negotiation had been to engage Charles in a war against the Dutch, he sent the Dutchess of Orleans to Dover where the negotiations were going on, to persuade the King to begin with the Dutch war and postpone his conversion. The Duke when he got down to Dover, which was some days after Charles had arrived there, found that, unable to resist the solicitations of his sister, he had agreed to

Charles out-  
witted Lewis.



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Macph. Pap. i.  
p. 54.

Lewis's proposal. And the Duke could not shake his resolution. Dalrymple says that Charles did not receive any part of the money to be paid for his conversion, but James in his diary says that, even when the Dutchess came to Dover, part of the money had been paid. However this may be, Charles notwithstanding his engagement delayed to prepare for the war, and Lewis refused to pay regularly the instalments stipulated for, as the price of his conversion.

Account of the  
*Traité Simulé.*  
Dal. Mem. ii.  
p. 83.

In the ensuing year, another treaty was made between these Sovereigns, called by the French *un traité simulé*. The former treaty having been negotiated and concluded with the knowledge of the catholic ministers only, Dalrymple conjectures that this was thought of by Charles for the sole purpose of making his protestant ministers parties to it, supposing it to be nearly a repetition of the former one, with the exception of the article respecting the King's reconciliation to the catholic church. But the alteration in that article made a very material change in the situation of the two Kings. Charles, whose qualms of conscience were quieted by the expectation of obtaining an immediate supply of money, had proposed that the article concerning his religion might not appear in this second treaty, and the sum due on that account thrown into his subsidy for the Dutch war, in order as he pretended, that the secret might be kept from his protestant ministers. In return, France insisted upon

the insertion of a secret article confirming the former treaty against the instances of Charles, who at last consented to give a declaration of the same date with the treaty for that purpose. That declaration states that, by the treaty, Lewis was to pay him two millions of livres tournois to assist him in declaring himself a catholic, and three millions each year for the expence of a war with Holland; and then it states that, by the treaty to be signed that day, it was stipulated that five millions of livres were to be paid him for the first years expence of a war with Holland, and that the two millions, mentioned in the former treaty for declaring himself a catholic, were included in the said sum of five millions, and engages that, having received the first two millions, he will give an acquittance as relative to the article of his being a catholic, and concludes with confirming the former treaty. The new treaty was signed by Charles on the 2nd of February, 1671, and by the commissioners on the 3rd of June following. In consequence of this second treaty, it became the interest of Charles to accelerate the Dutch war, because in the subsidy for the first year was to be included the 2,000,000 of livres agreed to be paid for his conversion. He therefore entered into a war against the Dutch, but was in no hurry to declare his new faith, because by that he would be entitled to no additional supply from France. In this second negociation it is probable that he had been encouraged by the Duke of York, who

SECTION  
V.Dal. Mem. ii.  
p. 97.

in a conversation the 14th of July, 1671, with Colbert after the treaty was made, and when a question had arisen whether a Parliament should be assembled or not, stated that affairs were then in such a situation as to make him believe that a King and a Parliament could exist no longer together; “that nothing should be any longer thought of, than to make war upon Holland, as the only means left without having recourse to Parliaments, *to which they ought no longer to have recourse till the war and the catholic faith had come to an happy issue*, and when they should be in a condition to obtain by force, what they could not obtain by mildness.” This Dalrymple points out, as one of the first strokes “of that arbitrary disposition and contempt of Parliaments in the Duke of York, which afterwards drew ruin upon him.”

Charles delays  
to execute the  
secret treaty.

The allied princes expected that the Dutch would not be able to withstand their forces, and that the war would be finished in a single campaign, but in this they were disappointed; and Lewis, who was engaged by the treaty to assist Charles with all his forces in case his subjects should rebel against him upon the declaration of his change of religion, and yet hoped it would embroil him with them, and render him dependent upon France, pressed him to make it immediately. Charles, who had no longer any inducement to take that step, raised difficulties, at one time refused with-



out assigning any reason; and the 21st of March, 1672, more than two years after the treaty was signed, Colbert communicated to his master an excuse, which must have opened his eyes, if Charles's conduct had not been sufficiently explicit before; it was that Charles desired a theologian from Paris to instruct him in the mysteries of the catholic religion, but that he desired this theologian might be a good chymist. And at last, Charles put an end to the farce, for on the 7th of June, 1672, Colbert writes, that he had postponed his conversion to the end of the campaign, and, in the mean time, desired a treaty with the Pope, by which should be yielded that the communion should be given in both kinds, and mass said in the vulgar tongue. This demand, which it could not be expected the Pope would comply with, could leave no possible doubt that Charles was not inclined to declare his conversion, and we hear no more on either side of his religion. In these transactions, the affected zeal of both Charles and Lewis for the catholic religion, while it could be used by either of them as an argument in favour of his particular object, and their coolness about it when those objects were no longer wished for, or had lost their consequence, may provoke a smile in a superficial observer of mankind, but to those of deeper thought it will probably give rise to melancholy reflexions.

SECTION  
V.Dal. Mem. ii.  
p. 101.Charles's conversion given  
up.

Ibid.

It is not improbable that Charles had been persuaded that by publicly declaring his change of religion he might

Policy of  
Charles in  
making the  
treaty.

SECTION  
V.Dal. Mem. ii.  
p. 102.

Ib. p. 148.

secure to himself the assistance of other catholic states, as well as of France, in case his subjects should rebel against him, for he communicated the secret to the Queen of Spain, and when Lewis complained of this breach of faith declared he had done it to engage the Queen to take part against the Dutch. And Blanchard, who had been secretary to Rouvigny in a memorial, written for the Prince of Orange in 1686, states that when the two Kings declared war against Holland they counted upon conquering it in one campaign, and their principal view was, thereby, to give such a fatal blow to the protestant religion that afterwards they might overthrow it through all Europe.

Charles's conversation with  
the Prince of  
Orange.

Barn. i. p. 273.

The impressions under which Charles acted may be collected from a conversation, which he had with the Prince of Orange in 1669, when the secret treaty was negotiating. The Prince told Bishop Burnett that "he spoke of all the protestants as a factious body, broken among themselves ever since they had broken off from the main body, and wished that he would take more pains, and look into these things better, and not to be led by his Dutch blockheads." The Prince related what he had heard to Zuylestein, his Uncle, and they were both amazed that the King should trust so great a secret, as his being a Papist, to so young a person, he being then only in his 20th year. The Prince never disclosed it till after the death of the King, but speaking to Sir

William Temple soon after the discovery of the Popish Plot went so far as to tell him, that "he had reason to be confident, that the King was a catholic in his heart, though he does not profess it." With all possible respect for the Prince, and his Uncle, it may be remarked that the expressions recorded by Burnet do not amount to a declaration on the part of Charles that he was a Papist, if by that word is meant a person reconciled to, and become a member of the church of Rome. They might be intended to convey a caution to the young Prince, and arise from the feelings of his Uncle towards him. It is now ascertained as will be shewn hereafter that Charles, whatever his private sentiments may have been, never declared in a formal manner his reconciliation to the church of Rome, or did any one public act from which his conversion could be inferred, until his last illness. The preamble to the secret treaty before mentioned, recited that he was "convinced of the truth of the catholic religion," and "resolved to reconcile himself to the church of Rome, as soon as the affairs of his kingdoms will permit him." The expression used by the Prince to Sir William Temple was probably more nearly accurate, namely, that the King was a catholic at his heart; but in fact he had no fixed principles of religion. At the time, when he conversed with the Prince of Orange, he might have hoped to derive advantage from declaring himself a catholic and uniting himself with princes of that re-

SECTION  
V.Temple's  
Mem. p. 339.Charles not  
reconciled to  
the church till  
his last illness.Dal. Mem. ii.  
p. 66.



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ligion upon the continent, but when he was afterwards convinced that his interest would be best consulted by remaining a protestant, he continued one to the closing scene of his life, though he had fifteen years before made this solemn profession of his being satisfied of the truth of the catholic religion.

Conversion of  
the Duke of  
York.

It is very extraordinary that the æra of Charles's conversion to the catholic religion should be the subject of dispute, but it is still more surprizing that the precise time of the conversion of James should not be ascertained. The eagerness with which he pursued every object, and the rashness with which he generally avowed his sentiments, we might have expected would have left nothing doubtful concerning a matter of such personal concern, as to constitute according to Mr. Rose the pride and boast of his life, and the ruling principle of all his actions. The French history of James states that he was converted while he resided at Brussels, but Dalrymple supposes his conversion to have been in 1669. Welwood says, that he was privately reconciled to the church of Rome during his exile, while the French author assures us that he did not make his abjuration till after the death of his wife, in 1671. Both he and Dalrymple however agree, that Father Symons, a Jesuit, was the immediate instrument of his reconciliation being completed. If it had taken place before the Dutchess had formally announced her conversion, her father Lord Clarendon

Histoire de  
Jaques 2d.  
p. 37.

Dal. Mem. i.  
p. 51.

Welw. Mem.  
p. 130.

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must have been ignorant of it, for in his letter to the Duke he assumes that he was not then without zeal and entire devotion for the Church of England. Echard also dates it after the death of the Dutchess in 1671, when, if we may rely upon his authority, there was a secret design among the papists to get Charles divorced from his Queen, by whom he had no children, to prevent which and secure the crown in his own family James abjured the protestant faith, and took for a second wife a catholic princess. But there has fortunately been preserved that part of James's Diary, which contains the account of his conversion, and puts an end to all dispute. For he tells us that "he did not turn till after" his return to England, and he had read "the histories of the Reformation," and that about the beginning of 1669, (having long had in his thoughts that the Church of Rome was the only true Church) he was more sensibly touched in conscience and began to think seriously of his salvation. We must recollect that this was at the critical period, when Charles at his instigation was desirous to declare himself a catholic, and negotiating the secret treaty. Accordingly the Duke sent for Joseph Symons a learned Jesuit, told him his good intentions, and treated with him about being reconciled to the Church. He said, unless the Duke quitted the communion of the Protestant Church of England, he could not be received into the Catholic Church. The Duke then pressed for a dispensation to appear outwardly a protestant, at least till a more proper time for declaring

Macph. Pap. I.  
p. 130.

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himself. But Symons told him it could not be done, upon which James wrote to the pope, who confirmed what the priest had said\*.

The Dutchess  
of York con-  
verted.  
Macph. Pap. i.  
p. 56.

In the winter of 1670, the Dutchess of York was suspected to be a catholic, she always before had received the sacrament once a month, but was taken ill and, from her not having prayers said to her, suspicions arose. "The King took notice of it in December to the Duke, who said she was resolved to be a catholic, and to be reconciled. The King bade him keep it private." And except to three persons it was not known till she died on the 31st of March, 1671. This is the account given by James, but it affords another proof that his Diary is not to be trusted implicitly, for the Dutchess herself in a paper, which she left behind her dated the 20th of August, 1670, a few months before her death, says that she never had any religious scruples till the month of November, 1669, when the reading of Dr. Heylins History of the Reformation raised doubts in her mind. She conversed with two Bishops, who rather encouraged her, † and was not satisfied,

Comp. Hist.  
iii. p. 292.

\* If the reader has any inclination to compare Carte's Extracts with the original diary in this particular instance, he may turn from p. 130 of the first Volume of Macpherson's original papers, where the passage is given in the very words of the Diary, to p. 52 of the same book, where he will find the corresponding extract.

Burnet, i.  
p. 358.

† Dr. Burnet had conversations at several times with the Duke upon the subject of religion, and he said, "He had often picqueered out (that was his word) on Sheldon, and some other Bishops, by



till soon after Christmas-day 1669, when she communicated to a catholic her design to change, who introduced a priest to remove her doubts. SECTION  
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The coincidence of dates and circumstances is well worthy of attention, and gives rise to suspicions not very honourable to these noble personages. In 1668, the Duke of York conversed with his brother upon the subject of his religion, and persuaded him to agree by treaty to embrace the catholic faith. In the November of that year his Dutchess began to doubt, and in the beginning of 1669, when the treaty was negotiating, he was sensibly touched in conscience himself, and began to think seriously of his own salvation. It is true that these conversions may by possibility have taken place at this critical period from virtuous motives; but considering the situation and characters of the parties

“ whose answers he could not but conclude, that they were much nearer the Church of Rome, than some of us young men were.” The Dutchess it seems came to the same conclusion, but unfortunately the Bishops, alluded to in her paper, denied what she had stated concerning them. This paper is open to observation in several other respects. She most solemnly declares that no person had used any endeavours to make her change her religion since she came to England, and describes her conversion as entirely of her own seeking. But if she had no doubts till November, it may be asked how Dr. Heylin's book happened to be recommended to her to settle her, in case she had any at that critical time? and by whom was it recommended? The reader will have observed also that the Duke knew in December of her design to be reconciled and told the King so, yet she says she did not disclose her design till after Christmas-day.

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concerned it is more probable that they originated in considerations of another kind. A great revolution in the general system of the government was about to be attempted, and the cordial co-operation of a powerful prince was to be purchased by a change of religion in the King, and to be better secured by a similar change in the presumptive heir to the throne, and his family. That the Duke should use his influence with the Dutchess to promote the object, which was uppermost in his own mind, and which he had for the first time engaged his brother to pursue with eagerness can occasion no surprize. If we may credit the Diary their doubts and scruples must have been suggested in the same year, from reading if not the same books, yet books written on the same subject; and conversations with Protestant Bishops, gave rise to similar reflections and doubts in both. The catholic, in whom she is represented to have placed confidence and who brought the priest to her, probably was her husband and therefore, when her change of religion was suspected and the King spoke about it to the Duke, he was already well acquainted with her wishes to be reconciled.

The Duke  
concealed his  
conversion.

Macph. Pap. i.  
p. 68.

The Duke does not seem to have been in any great hurry to declare his own conversion, or his application to the Pope must have been attended with a considerable loss of time, for he continued to attend the King to church as usual lest he should be suspected. About the Christmas of 1672, the King spoke to the Lords

Clifford and Arundel to persuade him to receive the sacrament with him, which he had forbore to do for some months before. The Test Act passed in the spring of 1673, and in May the King endeavoured to prevail upon the Duke to conform, but he was resolute. We now have the authority of the Duke himself for fixing the date of his public avowal of the catholic religion to be several months after the death of the Duchess, and some months previous to the Christmas of 1672, yet after that he continued to attend the King to the protestant church; but the secret got out, and to guard against the apprehended mischief the Test Act was passed. The withholding from the public the avowal of his conversion was not exactly consistent with his general character; it might have been expected that he would have gloried in the act, rather than have condescended to conceal it. His brother, aware of the impending danger, wished him to retrace the steps he had taken, but provoked at the weakness, which had permitted the crown to be robbed of what was, in his estimation, one of its most valuable prerogatives, and feeling himself humiliated and unjustly persecuted, he resumed his usual spirit, refused all compromise and on the 15th of June resigned his employments. An extract from his Diary remarks, "All the storms now raised, and which afterwards followed the Duke in Parliament, bear their date and origin from the suspicion they had of his being converted to the Roman Catholic faith. Nor could his private enemies till then, gain any advan-

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Ib. p. 111.

Fatal consequences of his conversion.

Macph. Pap. i.  
p. 71.



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V.Dal. Mem. ii.  
. 153.

“tage over him. Before that time, he was looked upon  
 “as the darling of the nation; for his having so freely,  
 “and so often ventured his life for the honour and  
 “interest of the King and Country, and for his having  
 “been always so active, and industrious in carrying on  
 “every thing as to trade, or as to navigation, that might  
 “tend to their advantage.” Charles describes the evil  
 consequences of this fatal step strongly to Barillon, in  
 a letter dated the 1st of November 1677, since that event  
 he writes, “All England has been in motion, and ap-  
 “prehensive that I have other designs, and am taking  
 “measures for changing the government and religion  
 “of my country.”

Contrast be-  
tween the two  
brothers.

Here it may be observed that if Charles had been  
 converted before he returned to England, it is highly  
 improbable that James should not have known it; and  
 when the secret treaty was agitated, the project for  
 Charles's conversion was formed in his closet, and the  
 treaty itself negotiated with his concurrence and appro-  
 bation. Upon this occasion, the different dispositions of  
 the two brothers were strongly marked in the conduct  
 of each. Charles artful, indolent, and timid, wished to  
 manage his own subjects, without resorting to the des-  
 perate measure of calling for the interference of a  
 foreign power. James, on the contrary, eager, rash,  
 and obstinate, was dazzled with the prospect of the  
 crown being possessed of arbitrary power, and no longer  
 restrained by Parliaments. He could not brook delay,

but precipitately became a member of the catholic church, as soon as his brother's conduct afforded a sanction. He flattered himself that this decisive step would secure the aid of the catholic powers, and waited only for his brother's permission to make the public avowal of his creed. Possibly he might hope to fix the wavering mind of the King and accelerate his declaration, without which he was persuaded monarchy must always remain in danger. The difficulties he encountered made him more determined in his conduct, and his brother's efforts to recal him to his former religion, the loss of all his employments, and a long train of calamities and humiliations served only to strengthen his resolution.

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Charles expressed no displeasure at his change of religion, and probably at the time when it was made was rather inclined from interested motives to encourage him in it. From some expressions used by James in conversation with Barillon in 1680, when he was highly enraged at the conduct of his brother in deserting his cause and sending him to Scotland, while his enemies were collected round the throne, it may be suspected that he not only took this hazardous step with the concurrence, but by the order of the King, for he manifested great distress of mind, and complained bitterly of the treatment he received "for an affair, in which he had only obeyed and conformed himself to the will of the King of Great Britain." When, however, the agitation of the public mind gave him

Charles approved of the Duke's conversion.

Dal. Mem. ii.  
p. 334.But afterwards  
displeased at  
it.

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alarm, Charles not only strongly expressed his regret, but wished it to be understood that the Duke had acted without his knowledge, and contrary to his wishes and advice. In truth, there was no single occurrence in the whole course of his reign, which gave him so much trouble, and was attended with so much danger. It was not only to him a constant source of anxiety and affliction and embittered the remainder of his reign and life, but decisively hastened the ruin of his brother and his family afterwards. If Charles had not been consulted about and approved of the Duke's conduct, it can hardly be conceived that he would not have expressed his anger more unequivocally at a transaction, so nearly concerning him, and so likely to involve him in the most serious difficulties. Trusting, but not confidently, in the engagements of France, it may have been concerted after the first secret treaty, that the Duke of York should by way of experiment first declare his conversion. But the manner, in which it was received by the Parliament and the nation, and the fate of the declaration of indulgence may not only have prevented the King from proceeding to fulfil the treaty by a declaration of his own conversion, but compelled him for his own security to disavow all previous knowledge of this act of the Duke. In this manner we may account for the haughty conduct of James while his exclusion was in agitation, and his displeasure at the timidity, and irresolution of his brother, who only declined to risk the crown in his support.



The obstinate and intractable temper of the Duke was strongly manifested upon various occasions in matters relating to his religion during his brother's reign; in the year 1673, after he had given up his employments, he was advised by the Earl of Berkshire and other friends, but in vain, to withdraw from court, and Lord M.\* and Lord Peterborough pressed him also to comply. In the beginning of the year 1675, upon the issuing of a severe order of the council against the Roman Catholics and Non-conformists, he said to the King that "he hoped he would not be displeased, if he did not wait on him to Church, as he had not, at his forbearing to receive the sacrament." At this time the Duke was in ill humour with the King, who had not protected him from the persecution of the Parliament, as he thought he had a right to expect, and had sent Arlington over to Holland to negotiate a match between the Prince of Orange and the Princess Mary, against the inclination of the Duke. In the next year the Duke refused to consent to the confirmation of his two daughters by the Bishop of London, in order to their receiving the sacrament in the Church of England, but submitted when the King insisted upon it. He said he had not instructed them in his own religion, because if he had they would have been taken from him.

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V.The Duke out  
of humour.  
Macph. Pap. i.  
p. 69. 70.

Ibid. p. 41.

Ib. p. 82.

Fortunately for this country the suspicions of designs being entertained for changing its government, and de-

Marriage of  
the Prince of  
Orange.

\* So in Macpherson.

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V.Dal. Mem. ii.  
p. 153.

stroying its religious establishment were so universal, that in order to satisfy the minds of the people, Charles was compelled in the latter end of 1677 to consent to the marriage of his niece with the Prince of Orange, who was then in England, and to insist upon the Duke of York also consenting to the match. In a letter of Barillon, dated the 1st of November, 1677, after describing the fatal consequences of the Duke of York having professed himself a catholic, Charles is stated to have declared that he had to resist the continual efforts of the whole English nation, and he himself was the only one of his party except it was his brother.

James always  
looked to the  
aid of foreign  
powers.

James, never having had any confidence in the friends of the royal cause in England for its support, and having imbibed under Cardinal Mazarin an exalted opinion of the superior strength of its opponents, had been accustomed to consider the friendship of the catholic powers on the continent, as the only solid security of the throne. And from the time when he had accomplished this secret treaty, or made the subsequent public declaration of his faith, he seems never to have willingly entered into any measures of conciliation, but considered every person who opposed the proceedings of the court, as an enemy to monarchy in general. Even during the debates upon the Exclusion Bill, irritated and mortified at the irresolute conduct of the King, his letters preserved by Dalrymple exhibit no symptom of compunction

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or sorrow; he attributes neither the distress of the government nor of himself, to any act of his own, but describes his apprehensions of all being involved in one common ruin, as if he had done nothing to occasion it. He was never satisfied with the temporizing conduct of Charles in not making the public profession of his religion, and after his death accounted for it by saying that he was afraid of shewing himself to the eyes of men such as he was, though there were several occasions, on which he might have done it without any danger. In the conversation alluded to James assumed that his predecessor had long before his death held the faith, in which it was wished his subjects might suppose him to have died.

Fox, App.  
p. xxxiii.

So early as in the second year after his restoration, and before he had formed any plan for making himself more arbitrary than, as he understood, by the constitution a King of England had a right to be, Charles had issued a declaration of indulgence asserting the dispensing power, and shewing his inclination to mitigate the severity of the penal laws against non-conformists, but his Parliament compelled him to withdraw it. At that time Clarendon was in power and the soundness of his principles was not doubted; but upon the fall of Clarendon, the House of Commons, which had manifested upon all occasions a bigoted attachment to the episcopal establishment, entertained increased suspicions of the designs of the King. It is not improbable that

First declaration of indulgence.



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upon the dismissal of Clarendon the King turned his thoughts more particularly to the conciliation of his catholic subjects and the augmentation of their numbers and power, with a view to reinstate what he conceived to be the rights of the crown, and repress the unconstitutional interference of a House of Commons, which continually opposed and tormented him.

General toleration proposed.

The King in 1667, had proposed to the Parliament a general toleration, expressed his favourable inclination towards the protestant non-conformists, and encouraged them to hope for a comprehension within the Established Church. The Parliament immediately took the alarm, and renewed the act against conventicles. In consequence a severe persecution of the protestant non-conformists was carried on, and an address against the catholics presented to the King, who issued a proclamation for the prosecution of them also in 1671. But the magistrates in general, knowing the wishes of the court, were not very active in its execution, while little mercy was shewn to the protestants.

Declaration of indulgence issued.

Irritated at the perverseness of his Parliament and encouraged by his ministers, Charles did not change his design. His object was the enjoyment of arbitrary power, as the ancient prerogative of the crown, and still contemplating the assistance of France, as his best protection from the republican and bigoted principles of his sub-

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jects, he determined by a bold effort to unite in the royal cause the catholic and protestant non-conformists against the establishment. He might also wish to make the experiment of the disposition of his subjects to the general toleration of the catholics, to which he was pledged by the treaty of 1671, for if that should be favourably received he might expect his own conversion would occasion no disturbance, and his brother be shielded from prosecution. The personal influence of the Duke of York was not wanting, and in March 1672, Charles had the boldness to issue a declaration of indulgence for sectaries of all descriptions, whether catholic or protestant. By this abuse of the prerogative he granted that toleration, which in his negotiation with Lewis was understood, and stated to be, the ultimate extent of the favour intended to be shewn to the catholics after his conversion. Charles met his Parliament in the memorable session of 1672, in full expectation that, by assuming the voice of authority, he should subdue the popular party and silence opposition; he declared at the opening that he would not be contradicted in his grant of indulgence, and that he would increase his army. But the Parliament more alarmed with the fear of popery, than intimidated by the King, not only insisted on the declaration of indulgence being cancelled, but passed the Test Act to restrain the exercise of the prerogative in the appointment of persons to office, and to deprive the Duke of York of his employments.

Cancelled.

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This declaration of indulgence appears to have been issued without the concurrence of France, but by the advice of Buckingham and Shaftesbury, who hoped to gain the dissenters; but the ferment through the nation was so great, the remonstrances of the Parliament so strong, and Charles so seriously alarmed that Lewis, fearing he might be driven to make peace with Holland, interfered and prevailed upon him to recal the declaration. The opposition, which was shewn to this untimely effort of Charles, tended more perhaps than any other circumstance to open his eyes to the danger of his situation. By yielding to the Parliament he quieted his people, but as that was not the wish of France, Colbert put him in mind that his master had by treaty stipulated to send over to his assistance 6,000 men after the war was ended, and assured him that in addition as many more, as he should stand in need of, should be sent over. Charles however avoided the snare, prudently declining the proffered assistance and declaring that nothing was so likely to occasion a general revolt of the whole nation, as to shew them that he could support his authority by foreign forces. After having relieved himself from this difficulty, he dared to think and speak no more of his own conversion, or the indulgence of catholics.

The Duke  
fears a bill of  
exclusion.  
1674.

The Dutch war continued till February, 1673, and in August, 1674, at which time the Parliament stood pro-



rogued to the 10th of November following, the Duke of York expressed to Colbert his fears of a bill of exclusion, and proposed that for a sum of money his brother should make a further prorogation of the Parliament. On this, a negociation was commenced, and Charles for 500,000 crowns agreed to prorogue it till April, 1675.

SECTION  
V.Money nego-  
ciations.

In a treaty made in February, 1676, copied by the King himself and signed with his own hand, in consideration of a pension to be paid to Charles, both Sovereigns agreed not to enter into any treaties without mutual consent, and Charles obliged himself to prorogue or dissolve the Parliament, if it should endeavour to force any treaties upon him.

In the year 1677, Charles obtained money from France for the purpose of bribing his own subjects, and on the 5th of August, bargained for 2,000,000 of Livres to be paid within the year that he would prorogue the Parliament till the end of April in the year 1678. In fixing this sum the Duke of York manifested a strong attachment to France, for Lord Danby's endeavours to increase were constantly frustrated by the Duke's struggle to diminish it. In the month of November, 1677, the Prince of Orange was married to the Princess Mary, daughter to the Duke, but Charles endeavoured to keep terms with France, and the Parliament, which

Dal. Mem. ii.  
p. 136.

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Dal. Mem. ii.  
p. 154.

had been adjourned to the 13th December was prorogued to April, 1678. Notwithstanding all the efforts of Charles, Lewis stopped the payment of the pension and proceeded to such measures as indicated an approaching rupture. The Duke of York with great anxiety endeavoured to prevent it.

Money given  
to members.

The French Ambassador, taught by the conduct of Charles himself, had begun to form connexions with some of the leading Members of the House of Commons, even before the agreement made in this year was completed. Barillon succeeded Courtin, as Ambassador from France, in September, and upon overtures being made by several Members of the House of Commons Lewis sent over de Rouvigny, who was better acquainted with them, and also remitted considerable sums of money to be distributed among them.

Macph. Pap. i.  
p. 91.

In 1678, when the examinations about the Popish Plot &c. were going on in Council, the King being apprehensive of an address to remove the Duke from his presence, which had been talked of before, endeavoured in vain to persuade him to abstain from attending there, and at last the council was forced to make an order for that purpose.

Dal. Mem. ii.  
p. 172.

In the spring of 1678 Lewis marched into Flanders, and obliged Charles to send some troops abroad. Even

the Duke of York cordially promoted the war. Barrillon's letter of the 18th of April, 1678, is characteristic of the general views and dispositions of the two brothers, "The High Treasurer's aim," he writes, "is to procure money, and he would willingly increase his master's authority. The Duke of York believes himself lost as to his religion, if the present opportunity does not serve to bring England into subjection; 't's a very bold enterprize, and the success very doubtful."—"The King of England still wavers upon carrying things to extremity, his humour is very repugnant to *the design of changing the government*. He is nevertheless drawn along by the Duke of York and the High Treasurer; but at the bottom he would rather chuse that peace should leave him in a situation to remain in quiet and re-establish his affairs, that is to say, a good revenue; *and I do not believe he cares much for being more absolute than he is*. The Duke and the Treasurer know well with whom they have to deal, and are afraid of being abandoned by the King of England, on the first considerable obstacles they may meet with to the design of enlarging the royal authority in England." Charles had proceeded for a series of years in a deeper system of intrigue and dissimulation, than perhaps had been ever carried on by any monarch; he had duped and sacrificed his ministers, and almost every body connected with him, but at last the storm fell upon his own head. The moment

SECTION  
V.

Views of  
Charles and  
James.  
Dal. Mem. ii.  
p. 174.



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Dal. Mem. ii.  
p. 190, 193.

Desperate  
condition of  
Charles.

Dal. Mem. ii.  
p. 205.

the continuation of the second Dutch war became no longer practicable, and the Commons would grant no further supplies, he entered into a secret money treaty with Lewis, which was concluded in a few days, and signed and dated on the 27th of May, 1678. By it, Charles engaged not to call a Parliament for six months, and was to receive in consideration of that, and the recalling and disbanding of his troops in two months, 6,000,000 of livres. At this period Barillon describes "the country, as almost in rebellion;" he was pushing his intrigues with the members of the House of Commons to the utmost extremity, and at last upon Lewis refusing according to agreement to deliver up the Spanish towns in Flanders, Charles entered into a treaty with the Dutch to make war upon France, if she did not evacuate them. This he did probably in order to get more money from Lewis, not with a serious intention to go to war, for about that time he offered to enter into a treaty with France in favour of Sweden her ally, for which he expected to receive a consideration in money. But the Dutch obtaining information of the negotiation for this treaty, hastily signed the treaty of Nimeguen in the spring of 1678. And, when Charles asked from the King of France payment of the first instalment of the pension stipulated for in the treaty, it was refused.

Charles broke  
with France.

This disappointment roused the anger of Charles, he broke off all connection with France, and sent a greater

army to Flanders, which was to be commanded by the Duke of York in person. But the French Ambassador, now well versed in the art of managing and corrupting the Members of the House of Commons, through Mr. Montague made a successful attack upon Lord Danby, then High Treasurer, and to save him from impeachment the Parliament was dissolved. The Duke of York saw further than Charles and dreaded more the impending storm: even before Lord Danby was impeached he secretly proposed to Barillon strong measures, supported by a cordial union with France; and when the impeachment was going on, in a letter dated the 5th of January, 1678/9, he writes that Charles had pressed for assistance from Lewis, upon the ground "that the attack upon the catholics, was "only an attack upon the common cause of royalty," but this argument had lost its consequence, and Barillon coolly answered that Charles ought to disband his army before he could expect it, "*for that is the essential point.*"

SECTION  
V.Dal. Mem. ii.  
p. 252, 254.

Charles is reported by Barillon, in a letter of the 12th of January, 1679, to have said that he liked better to depend upon the King of France than his people, and at other times he begged the assistance of France in the most humiliating terms, but his intreaties were unsuccessful, for it was suspected that there was a secret understanding between him and the Prince of Orange. Besides he was not to be trusted about disbanding

Ib. p. 256.

SECTION  
V.Dal. Mem. ii.  
p. 258.

his army, and Barillon conceived it more advantageous to intrigue with the Members of Parliament, than with the King.

In his distress,  
Charles turns  
to his own sub-  
jects.

The proceedings against Lord Danby, the discovery of the Popish Plot, and the agitation of the Exclusion Bill had thrown the nation into a ferment, and a civil war seemed the necessary consequence. At this crisis, abandoned by France, Charles had no resource but in his own subjects, he therefore assembled a new Parliament, disbanded his newly raised forces, sent the Duke of York into Flanders, and by the advice of Sir William Temple constituted a new Privy Council, to which Lord Russell and the most popular leaders in the House of Commons were admitted.

Dal. Mem. ii.  
p. 340.Macph. Pap. i.  
p. 91.

Charles tries  
to get the  
Duke to con-  
form.

Charles now most anxiously endeavoured to prevail upon the Duke to make some concessions, and used every expedient which could be suggested. In January, 1679, Lady Powis was deputed from the Lords in the tower to beg for their sakes that the Duke would withdraw, while the King urged him to take the protestant tests, as the only means of securing his continuance in England and preventing his utter ruin. The Parliament, which had sat sixteen years, was dissolved, and another summoned; but before it met, on the 4th of March, 1679, the King sent the Archbishop of Canterbury and the Bishop of Winchester to endeavour to persuade the Duke to con-

Dal. Mem. ii.  
p. 261.Dal. Mem. i.  
p. 49.



form to the established Church. Upon this subject, however, James was still inexorable, he declined the conference and was highly displeased at the deputation having been sent to him. Notwithstanding the ill success of these prelates, on the 15th of June the attempt was repeated, and the Duke further pressed by his friends to change his religion. Charles, chagrined at the obstinacy of his brother and alarmed for his own safety, sent him, much against his inclination, out of the kingdom. He wished to have taken up his residence in France, but the King would not permit him.

SECTION  
V.Macph. Pap. i.  
p. 93.

Charles could not long endure the thralldom of his new council, and, within less than two months after it was formed, conjured France in the most abject manner to incline to put England under its dependence for ever. Lewis kept him in suspense for some months, but, after the dissolution of the second Parliament, attended to his supplication. The Duke of York was consulted at Brussels, and expressed the utmost anxiety that the treaty should be concluded, he offered to lend, and actually did lend his own money to Lewis to enable him to pay the subsidies, and sent Churchill to Paris to assist in the negotiation. Lewis, either actuated at last by the same wishes with the Duke or disposed to secure his further friendship, applied to Charles for permission for him to return to England, which was accordingly granted. The condition at first proposed by Lewis was

Charles applies  
again to  
France.Dal. Mem. ii.  
p. 281.

Ib. p. 290.

Ib. p. 285.

SECTION  
V.Treaty broken  
off.Dal. Mem. ii.  
p. 297.

Ib. p. 312.

that Charles should not assemble a Parliament for a number of years, and the term fixed was of three years, and after that time not till Lewis should give him leave. For this Charles was to receive 1,000,000 of livres per annum, by quarterly payments, and if he should be compelled to call a Parliament the French King himself was to judge whether the payments, if any remained due of the million a year, should be continued. The avowed reason for breaking off this negotiation was the insertion of a clause by the French Ambassador, to which even the base mind of Charles was not prepared to submit. But it is probable that the alarm of the ministers of the King, particularly the Lords Hyde and Sunderland, and perhaps of the King himself at entering into a stipulation not to call a Parliament, whatever exigency of the country might require it, induced the King and his Ministers to break off the treaty in the end of November, 1679. Charles immediately made advances to the Dutch and Spaniards, and entered into a treaty with Spain. Lewis was then aware of his error and offered terms of conciliation through Barillon and the Duke of York, who was displeased at the measures taken in his absence and without his privity, but Charles was not to be prevailed upon. He told Barillon that the want of an alliance lay at Lewis's door, "and if he dared to say  
 " so, it was the second fault of this kind which had been  
 " committed by France; that, when the triple alliance  
 " was made, he had given information of it to Mr. de  
 " Rouvigny before hand."

A more humiliating spectacle can hardly be found in history than was exhibited in the person of Charles the Second during the greater part of his reign; to so low and mean a situation was he reduced, that he was trusted neither by his subjects, nor by foreign powers. By dissimulation and baseness it is true that he retained his throne, and died a King, but a reference to a few passages in the French correspondence will prove how little his situation, or that of his confidential adviser, his brother, was to be envied, after the fall of Clarendon. Even before the cabal was dismissed and when the first money treaty was in agitation, Charles was aware how very obnoxious his connection with France would be to his people, who were generally disposed to favour Spain. In 1676, de Rouvigny writes to Lewis, "it will be difficult to conceive that a King should be so abandoned by his subjects, that even among his ministers he cannot find one, in whom he can place an entire confidence." And Courtin in 1677, writes, as Rouvigny had done in the preceding year, that he could count upon only two friends in all England, the King and the Duke. Again 5th of August, 1677, the Lord Treasurer said in Courtin's presence, that "the King of England hazarded his crown by opposing, as he did, the universal desire of his subjects." On the 8th of May, 1679, Barillon wrote, that the power of Charles, by the factions of his own dominions was entirely sunk; that an alliance with him would therefore be of no

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Humiliating  
situation of  
Charles.

A connection  
with France  
always odious.

Dal. Mem. ii.  
p. 130.

Ib. p. 142.

Ib. p. 138.

Ib. p. 258.



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advantage with regard to foreign affairs, and that it would be better to continue to court the heads of parties in order to continue his difficulties.

The Duke dis-  
pleased at  
Charles's con-  
duct.

There are preserved in Dalrymple a considerable number of letters written by James to the Prince of Orange, dated from Brussels in the year 1679, in which is expressed great dissatisfaction with the King's proceedings, accompanied with apprehensions for the fate of monarchy in England, all things tending to a republic. It is observable that he expresses no sorrow at the state into which he has brought the King, but anxiously wishes him to make no concession and run the risk of his crown to prevent the Bill of Exclusion from passing, which he states not to be the object of his enemies, who wished for a commonwealth, backed by the presbyterians, who are gaining strength. He seems at all times to have been fully convinced, or desirous to inculcate that the monarchy and the King, were aimed at by the Bill of Exclusion, and to have retained the same high notions respecting monarchical government, which he had imbibed in his earliest years. They are strongly marked in a letter to the Prince of Orange, dated 6th of July, 1679, in which he writes, " the bill that was read in the House of  
" Commons against me, which was against law, and  
" which destroys the very being of monarchy, which  
" I thank God yet has had no dependency on Par-

Dal. Mem. ii.  
p. 274.

"liament, nor on nothing but God alone, nor ever can  
"and be a monarchy," and on the 26th of July, 1679,  
the same sentiments are repeated."

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Dal. Mem. ii.  
p. 277.

In order to defeat the Exclusion Bill, Charles declared to the Parliament his readiness to consent to limitations upon the power and future succession to the Crown, to which scheme neither the Duke of York, nor the Prince of Orange were inclined to accede; and at last, completely overcome with the difficulties he was perpetually encountering through his efforts to secure the succession to the former, he seems to have given up his support in despair; and in February, 1681, proposed to the Prince of Orange to make the Princess Regent, during the life of her father. But both of these plans were rejected by the Parliament.

Charles's concession to defeat the Exclusion Bill.

Dal. Mem. ii.  
p. 381.

Ib. p. 369.

The Duke of York acted a most extraordinary part in these transactions, he received, as before mentioned, the order for his residence abroad with great displeasure, and his mind was so much irritated, that he immediately supplicated the protection of Lewis and apologized for his having lately appeared to oppose the interests of France, throwing the fault upon his brother. Lewis shewed him every possible attention during his abode at Brussels, and obtained his recall about the 18th October, 1679, for which James expressed his gratitude in the strongest terms. And from this time, he, as perhaps

Extraordinary conduct of the Duke of York.

Dal. Mem. ii.  
p. 295.

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in some respects he had done from the beginning of the reign, placed all his dependence upon France, fully persuaded that the Government at home could not be carried on without proceeding to extremities, and calling in a foreign force. The treaty broke off in November, 1679, and James remained in England till after the Parliament met in the ensuing year (21st October, 1680). Charles, at that time, had no connection with France, and it became a question, whether he should not attempt to keep well with the Parliament and the people by sending the Duke abroad again. Charles was much irritated at the uncomplying spirit of his brother, and entertained serious thoughts of abandoning him to the Parliament, if he could fall upon no other method of extricating himself from the difficulties, which surrounded him, at least such seems to have been the apprehension of James, who made a confidant of Barillon. The danger, however, was so urgent that the King continued firm in his resolution that James should depart for Scotland; but Shaftesbury threatening an impeachment, the Duke insisted upon having a pardon for his security. This was debated in council, and the King refused it. The Duke then declared he would not go to Scotland, and the King was under difficulties, because he could not by law compel him to leave the kingdom against his will. Charles and his confidential advisers were however so strongly convinced of the urgent necessity of sending the Duke away, that he was at last obliged to depart. Mr. Godolphin saying "if the Duke of York does not leave it" (i. e. the

Dal. Mem. ii.  
p. 327.

Macph. Pap. i.  
p. 104.

Dal. Mem. ii.  
p. 328.  
Macph. Pap. i.  
p. 104, 105.

Dal. Mem. ii.  
p. 328.



Kingdom) ' at present, he will be obliged to go in a  
 " fortnight, and the King along with him."

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At this time, Charles was desirous to please the Parliament, Monmouth had been reconciled to him, Sunderland and the Dutchess of Portsmouth were inclined to favour Monmouth, and the Ministers appeared well disposed to the Prince of Orange. To add to this combination of untoward circumstances against the Duke of York, he had incurred the royal displeasure, and been compelled much against his inclination, to embark for Scotland. In a conversation with Barillon just before he sailed, he declared in terms full of violence and rage, that "*if he was pushed to extremity, and saw himself likely to be entirely ruined by his enemies, he would find means to make them repent it, and revenge himself of them, by giving your Majesty also your revenge, for the conduct they had held with regard to you; the meaning of which is, that he hopes to be able to excite troubles in Scotland and Ireland, and he even alledges he has a party in England, more considerable than is thought of.*" He finished his discourse with great protestations of being eternally attached to your Majesty, and by a very humble prayer to grant him your protection." Barillon answered only in general terms.

Critical situation of the Duke of York.

Thinks of resisting his brother.

Dal. Mem. ii.  
 p. 335.

Lewis, upon receiving this welcome intelligence, ordered Barillon to assure the Duke of secret supplies, in case

Dal. Mem. ii.  
 p. 339.

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Dal. Mem. ii.  
p. 363.

he should carry his threat into execution. It however turned out, from the extreme unpopularity of the Duke's administration in Scotland, that he was obliged upon his arrival there to abandon the design of revolting against his brother. The conduct of James, upon his being sent at this time to Scotland, affords ample scope for reflection. There is nothing wonderful in his being exasperated in the highest degree at the preference openly shewn to Monmouth, and the disgraceful treatment he himself experienced, but that this destined martyr to the doctrine of the divine right of Kings should seriously propose to rebel against his Sovereign, and afford a practical proof of the fallacy of his own principles is a fact, which no previous acquaintance with his temper and turn of mind could have led to the expectation of. This outrageous design probably never was communicated to his brother, and that the Duke of Monmouth and others about the court were kept in ignorance of it appears from their never having afterwards urged it, as an argument to inflame the mind of Charles against him, or prevent a reconciliation between them.

New treaty  
with France.  
Dal. Mem. ii.  
p. 337.

During these struggles Charles had received proposals for a money treaty with France, stipulating, among other things, that the Duke should return, the catholics be favourably treated, and the penal laws against them suspended, and Charles never more call a Parliament, and in re-

turn he should have a pension for three years. Probably thinking the terms too exorbitant, he had kept the treaty in suspense, but in January, 1680, the Duke sent Churchill to the King to further it, and the King consented that the Duke should carry it on, but he would not move in it himself. He cautioned the Duke, however, not to consent to any article, which might foreclose him from calling a Parliament, that the first payment should be more considerable than the succeeding, and the last, and that the person sent by the Duke should come straight to London and deliver his letters to Mr. Hyde, to be shewn to the King. Charles agreed to the treaty on the 24th of March, 1681, and a few days afterwards dissolved the Parliament with a firm determination never to summon another, and published an appeal to the people. The discovery of the infamous transactions carried on between the courts of England and France, made in consequence of the prosecution of Lord Danby, had alienated from Charles the affection of his subjects, and after the dissolution of the Parliament he laid aside all thoughts of conciliation; relying upon the assistance of France, he set at defiance all his domestic enemies, and resolved to preserve his crown and secure his person, without being scrupulous as to the legality, or morality of the means used for those purposes. Barillon pressed that the treaty should be reduced into writing, but the King refused, and at last it was concluded verbally. By this treaty, Charles in con-

SECTION  
V.Macph. Pap. i.  
p. 114.

1681.

Del. Mem. i.  
p. 369.



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ration of a pension of 2,000,000 of livres for one year, and of 5,000,000 crowns for two more, engaged himself by a stipulation introduced into the treaty, contrary to his orders to the Duke of York as before mentioned, not to assemble a Parliament, but for what period of time Dalrymple does not inform us, probably for the three years during which the pension was to be paid. After this treaty, Lewis, feeling himself in security from any efforts of this country to interrupt his schemes upon the continent, became indifferent about keeping up the connections, which Barillon had formed with the popular party, though strongly pressed by him not wholly to give them up.

The Duke kept  
in Scotland  
because he  
would not con-  
form.

Macph. Pap. i.  
p. 109.

Ib. 118.

Ib. 120.

James bore his banishment to Scotland with great impatience, and Charles was importuned by his friends very soon after he went there to order his recall. In 1680, they renewed the solicitation, and again in March, in the same year, but whether before or after Charles had agreed to the treaty does not appear. And on the 24th of May, Halifax got from the King a promise that he would not send for the Duke. The Duke had flattered himself that Lewis would make his return to England one of the stipulations in the treaty, or that it would be obtained through his interference, or be the necessary consequence of it. In these expectations however he was cruelly disappointed, for he was kept in Scotland for nearly twelve months afterwards, because he would not consent to con-

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form to the Church of England. The King, pressed on all sides with difficulties and dangers, had determined to endeavour to extricate himself by prevailing upon the Duke if not to resume his former creed, at least to conform externally to the established Church. Such a hopeless expedient could be resorted to only in a case of most urgent necessity, but Charles was reduced to the last extremity. Churchill, who had been sent as before mentioned to expedite the treaty, pressed that the Duke might be permitted to wait upon the King, and on the 31st of August, 1680, the following answer was delivered to the Duke by Lord Hyde, as it is stated in the extracts from James's Diary, that "except the Duke of York resolved to conform entirely, and go to church, no leave was to be had; that if he did not conform, the King could no longer support him, though he had hitherto done it, 'that I should ruin myself and him.' Hyde executed his instructions well, in pressing and representing the dismal state of affairs; when after two or three days' discourse, he saw he could not prevail, he shewed the Duke a short note, in the King's own hand; 'that if I would but go to church, without doing more, I should have leave to come to him, as soon as the Parliament was up.' The Duke rejected the conditions. But whether his conduct upon this occasion proceeded purely from conscientious motives may be questioned, for about this time he attended, without scruple, the public prayers of the presbyterians

Macph. Pap. i.  
p. 129.

Ib. p. 125.

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Dal. Mem. ii.  
p. 340.

Macph. Pap. i.  
p. 111.  
Rose, p. 118,  
note.

Burn. i. p. 517.

Ib. 124, 129.  
132, 133,

at the Parliament of Scotland. Some time afterward (14th of October,) Barillon mentions his having learnt from a good quarter, that the King was always pressing the Duke of York strongly to take the protestant tests, as the only means of bringing about his continuance in England, and securing him from utter ruin. And afterwards the Lords Halifax and Hyde wrote to the Duke upon the subject. His answer to the letter of Lord Hyde bears date the 14th of December, 1680. Mr. Rose has given a copy of it, from Lord Dartmouth's MS. notes upon Burnet, and he says, first, that he cannot do it in conscience, and it would be of no advantage to the King's cause; he then says peremptorily he will not do it, rejoices his Majesty has laid aside the intention of writing to him, "for should he be prevailed upon to do it, one might easily guess what must soon follow after." Perhaps intimating that if the King insisted upon it, he should be compelled to resist by force. Mr. Rose has also copied from the same MS. another letter, written by the Duke about the same time, in which the letters of Halifax and Hyde are mentioned, expressive of his determination not to comply.

At last, if we may credit the extracts from James's diary, (which are in some degree contradicted by his gratitude to Lewis for his recall, as having been obtained in consequence of his request) the Dutchess of Portsmouth, accomplished his return for the purpose of



making, at the desire of the King, a settlement of £5000 a year upon her, which it was advised could not be done without his presence in London. James shews a particular anxiety that this may be understood to be the cause of his return; it is mentioned repeatedly in his diary, and in places where it has no connection with the circumstances, recorded immediately before or after it. On the 11th of March, 1682, he met the King at Newmarket, and attended him till the third of May, when he left him to bring his Dutchess to England.

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In consequence of the private money treaty of 1681 the Duke of York returned from exile, and Lewis well knowing his blind attachment to France, and his influence over his brother, ordered Barillon to act in concert with him. He also wrote a letter to him dated on the 20th of March, 1682, expressive of pleasure at his return, in which are these words, "I see also that your councils and  
" firmness will henceforth be very necessary to strengthen  
" the King of Great Britain in the resolution to avail  
" himself of the means, I have offered him, to confirm  
" the peace, and render immoveable the terms of friend-  
" ship, to which you have so much contributed \*."

The Duke re-  
turns, friendly  
to France.Dal. Mem.  
App. to Pt. i.  
in. p. 54.

\* Upon the treaty of 1681, and the general state of affairs, James in his diary gives his sentiments pretty fully, the extract is as follows:  
" The King's necessities had been long so great, and the Parliament  
" so refractory, that he had no way left for relief, but by a private  
" agreement for a pension from France. The conduct of the French  
" upon this, had like to have obliged the King to call a Parliament;

Macph. Pap. i.  
p. 132.

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The Duke in  
full power.

Macph. Pap. i.  
p. 127.

Charles intends  
a change.

The power of the Duke of York was now predominant, the King indulged his natural disposition to indolence, and gave the reins of Government, which he found too troublesome to hold himself into the hands of his brother. So long as the subsidy was regularly paid according to the treaty of 1681, Charles behaved under the controuling influence of the Duke with the most abject servility towards France, though at one moment the Duke himself seems to have felt some indignation at the encroachments of that power, and thought of resorting to a Parliament. Lewis, among other encroachments contrary to the treaty, had resolved to make himself master of Luxemburg\*, and seize the principality of Orange. When the treaty of 1681 expired and the subsidy was discontinued, Charles's necessities pressed hard upon him, he had some time before discovered that Lewis had been intriguing with his subjects, while professing the most ardent wishes to serve him; he became melancholy, and it is probable, that in order to extricate himself from his difficulties he had determined upon an entire alteration of his system of government, which was prevented only by his death.

“ which at that time would have turned to the Duke's advantage.  
 “ The project was broke off by Halifax's refined arguing, who was  
 “ always for cleaving a hair in his advice. The Duke owed his  
 “ return to court to the Dutchess of Portsmouth, without her intend-  
 “ ing it. This turned out well for the King for, without the Duke's  
 “ presence, the King could not have obtained such a victory over  
 “ the faction.”

\* For this Charles received a large sum of money from Lewis.

About the time of his discovering the treachery of Lewis, he expressed his apprehensions for the situation and prospects of his brother, when walking with Sir Richard Bulstrode, who had been his Minister at Brussels. He spoke with pleasure of the Flemings, and then added, "but I am weary of travelling, I am resolved to go abroad no more. But when I am dead and gone, I know not what my brother will do, I am much afraid that when he comes to the crown, he will be obliged to travel again. And yet I will take care to leave my kingdoms to him in peace, wishing that he may long keep them so. But this hath all of my fears, little of my hopes, and less of my reason, and I am much afraid, that when my brother comes to the crown, he will be obliged again to leave his native soil."

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V.Charles alarmed  
for his brother.Bulstr. Mem.  
p. 424.

And still impressed with the same fears, Puffendorff relates that when, aware of his own approaching dissolution, he delivered the key of his strong box to James, he gave him the prudent advice, "Not to think upon introducing the Romish religion into England, it being a thing that was both dangerous and impracticable."

Welw. Mem.  
p. 156.

The death of Charles happened at a critical moment for the Duke, for he had in contemplation a complete and immediate change of men and measures, and the Dutchess of Portsmouth and Sunderland had resolved that the Duke should be sent out of England again. The

Conversion and  
death of  
Charles.Macph. Pap. i.  
p. 134.



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Dutchess was jealous of his power, and perhaps dreaded the final event, if Charles should be prevailed upon to persist in the measures which had been suggested by his brother. James would have us believe that his frequent conferences with the King, which increased her fears of his power, had for their object religion, not politics; that his anxious wish was to make a convert, not to govern a kingdom. But the character of Charles does not permit the supposition that he was impelled by any religious scruples to add to his troubles, and make a declaration of his faith. That his anxiety upon that subject did not induce him to wish for frequent conferences with his brother may be reasonably inferred, not only from the silence and patience in which he passed the last twelve years of his life, without submitting to those public ceremonies, which (if convinced of the truth of the catholic religion) he must have believed to be necessary for his salvation, but from the efforts which he made repeatedly, and most anxiously to bring back his brother to conformity with the protestant church. On the other hand, we can readily point out motives, which might have induced the Duke of York to pretend that religion was the object of these conferences, or really to have made it so, for we cannot forget how intimately the conversion of Charles had been connected upon a former occasion with the system of policy, which James had constantly recommended, and was displeased not to see pursued. We obtain however knowledge of this fact, if the truth of

James's representation be admitted, that he was endeavouring to make his brother a catholic, and we also learn that his persuasions had no effect, and that, if Charles had lived, he expected an order for his own removal from court. What James could not effect when Charles was in health, and his faculties were entire, he contrived to bring about not long afterwards in the closing scene of his life; when he had the triumph of seeing the almost helpless monarch perform religious ceremonies, he was not in a condition to understand or partake of, and to publish afterwards to the world, that he died in the same faith with that which he himself professed. On Monday morning the 12th of February, 1685, Charles was seized with a sort of apoplectic fit, and continued in a very precarious state till Thursday the 15th, when he had a second attack, and there were no hopes of his recovery. A very minute account of his reconciliation to the Church of Rome, when his dissolution was approaching, was given by Barillon in his dispatch to Lewis the Fourteenth, dated on the 18th of February, 1685; and Father John Huddleston in a Brief Account of the particulars, annexed to a Short and Plain way to the faith and church, written by his uncle, has detailed the religious rites, which were performed, and the conduct of his proselyte. Some further particulars are also noticed in the copy of a letter from Mr. J. Aprice, a Catholic Priest, to Mr. William Linwood, preserved in the British Museum, and published

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Dal. Mem.  
App. to Part i.  
ii. p. 115.

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in the Appendix to Harris's Life of Charles the Second, but that book having been long out of print, it is inserted in the Appendix to this Work. It differs materially in some respects from the two other accounts; but as it was written only the day after Charles's death, and Mr. Huddleston himself appears, from the manner, in which he is mentioned in it, to have furnished the facts in a few hours after he had quitted the presence of his dying Sovereign, its credit seems preferable to either of the other accounts. To Barillon's, because he must have received most of the circumstances he has mentioned from the Duke of York, and others interested to deceive him, as well as the people in general; to Huddleston's, because his narrative was drawn up, and printed, at the desire, and to serve the interested purposes of the then King.

The letter of Mr. Aprice mentions some particulars, which Barillon was not acquainted with, and which Mr. Huddleston might not think it necessary to communicate to the public. It discloses that the reconciliation of the King to the Church of Rome originated neither in the suggestions of his own conscience, nor any anxiety of the Dutchess of Portsmouth about the state of his soul, but was the result of a preconcerted plan. No sooner was Charles recovered from his first attack on the Monday, than the Duke of York began to take precautions, and Mr. Huddleston was commanded



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to be incessantly in waiting, but an opportunity of making him useful did not present itself till the Thursday following. It is not improbable that the design was kept secret from Barillon, until he was made, as if by accident, a principal agent in the transaction. Now we are acquainted with the fact of Mr. Huddleston being in waiting by order of the Duke, we may be permitted to smile at the minute account given by Barillon, of the difficulty the Earl of Castlemethor had to find a Priest. \* But it, however, fortunately happened that the Queen's Priests, for what purpose we are not told, were in a closet near the King's chamber, and among them Mr. Huddleston, the very man, who had saved the King after the battle of Worcester and had been excepted by Act of Parliament, from all the laws against Catholics and Priests. Disguised in a wig and gown, he was, between seven and eight in the evening, introduced into the King's chamber. Barillon says that Huddleston was himself "no great Doctor," but was instructed in what he had to say to the King, on such an occasion, by a Portuguese Monk of the barefooted Carmelites; but the Duke afterwards told Barillon that he acquitted

\* The Extracts from James's Diary agree with the account of Barillon, it is said, "The Duke of York proposed sending for a Priest to him to Count Castlemethor; but *none being found*, Huddleston was brought up the back stairs to the private closet, where the Duke, the Earl of Bath, and Trevanion a Captain of the Guards were." Mac. Pap. i.  
P. 142.

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himself very well, and "made the King formally promise "to declare himself openly a catholic, if he recovered "his health." It can hardly be supposed that Mr. Huddleston was ignorant of his duty as a Priest when first applied to, and it is highly improbable, if he was ignorant, that he would have been in attendance for four days, in constant expectation of being called in at any moment, without obtaining the necessary instructions. But the circumstances related by Barillon, which did not occur in his own presence, are not much to be relied upon, and he certainly has made a mistake as to one material fact, for the Priest did not require any promise from the King, that, in case of his recovery, he would make a public declaration of his new faith. Father Huddleston makes no mention of it in his account, and Burnet says he was much blamed for not having insisted upon it. That Charles never had manifested his conversion to the Church of Rome, by the performance of any formal act or ceremony, is clear from the dedication of the book before mentioned to the Queen Dowager by Mr. John Huddleston, who officiated upon this occasion; for he, mentioning "that conversion of "his to the Catholic Church," says, "which your "Majesty would look upon as the happiest moment "of your own life, as well as of his, *had it not been "so near his last.*" \* An expression used by the Dutchess

\* The *Histoire de Jaques le Second*, published at Brussels in 1740, p. 31. also states that Charles was not converted till his death.

of Portsmouth to Barillon also implies the same thing, and Father Huddleston expressly states that, after he had made a tender of his services, the King declared his desire to "die in the faith, and communion of the " holy Roman Catholic Church: that he was most heartily " sorry for all his sins of his life past, *and particularly for* " *that he had deferred his reconciliation so long\**.

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\* It was omitted to be mentioned in its proper place, that the Duke of Ormond, who was a Catholic himself, suspected the King to be one so early as when they removed from Cologne to Flanders. And being at Brussels, just before the negotiations for the treaty of the Pyrennees were opened, the Duke went at a very early hour into one of the Churches, where a great number of people were at their devotions, and saw the King on his knees at mass near the altar. The Duke retired without being perceived, and did not mention the circumstance. At that time a great division of sentiment, as to the best measures for the King to pursue, prevailed among his friends, but they seem to have been agreed in a general persuasion, that he was convinced of the truth of the catholic religion for both Sir Henry Bennett, who wished the Duke to advise the King to a public avowal of his change, in order to obtain assistance from France and Spain, whose ministers had made his conversion the condition of granting it, and the Earl of Bristol, who applied to him to prevent the King from making such a declaration, because it would offend the protestants, assured him that he was a catholic. These circumstances undoubtedly tend to prove that, when Charles was at Brussels, he was either convinced of the truth of the catholic religion, or wished it to be thought that he entertained sentiments favourable to it. But that he was a member of that Church, or that he had formally gone through the ceremonies necessary for his reconciliation, and to entitle him to the benefit of its ordinances, before the time, mentioned in the text, there is no ground for believing.

Carte's Ormond, ii.  
p. 254.



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Comparing the dates which have been stated, and considering the weak and exhausted state of the King when he is supposed to have gone through so many fatiguing religious ceremonies, it is impossible not to entertain a doubt of his capacity to receive spiritual comfort from them, or of his being, as Mr. Huddleston assured Mr. Aprice he was, "as ready and as apt in making his confession, as if he had been brought up a catholic all his life time." Barillon says that the priest was with the King three quarters of an hour. He had been given over by the Physicians in the morning, but the introduction of the Priest could not be managed till between seven and eight in the evening. He left the chamber of course between eight and nine, yet if we may credit Barillon, Charles continued sensible the whole of the ensuing night, and spoke upon all things with great calmness. But in Mr. Aprice's letter we are informed that "he was heard to say little, but begging Almighty God's pardon for all his offences." After Charles's reconciliation, Barillon describes him as being a little better, "he spoke more intelligibly, and had more strength," and Barillon, and other persons present entertained hopes that God was working a miracle to restore him\*. Here we have an admission that before he had received the Sacraments, he had not spoken very intelligibly; and we must read Barillon's account

\* Barillon's words are, "Nous esperions deja, que Dieu avoit voulu faire un miracle en le guerissant."

with some degree of caution, for he fondly hoped that God had begun to work a miracle in favour of his religion from appearances, which could not deceive the cooler judgment of those, who knew too well that there was no change for the better. The Physicians, not misled by the expectation of any supernatural interference, but drawing their prognostic from the known laws of nature and the actual state of their patient, declared their opinion that "he could not out live the "night." In fact he suffered great pain during the night, was bled at seven in the morning, became speechless about eight, and breathed his last before noon.

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Upon this subject the professional character of Dr. Welwood entitles him to great respect, and he, when discussing the question whether the King died by poison, describes him to have suffered most severely during the whole time of his illness from a racking pain in his stomach, and as pointing to that part as the seat of it, laying his hand there generally, even when insensible, in a moaning posture, and so continued to his death. Moreover, he says that "his "fits were so violent that he could not speak when they "were upon him, and shewed an aversion to speaking "during the intervals," and that "so violent was the "pain, that when all hopes were gone the Physicians "were desired to use all their art to procure him an "easy death." Burnet also says, "the King suffered

Welw. Mem  
p. 140.

Ib. p. 148.

Ib. p. 140.

Burn. i. p. 609.

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“ much inwardly, and said he was burnt up within: of  
 “ which he complained often, but with great decency.”

His conversion  
to be sus-  
pected.

Adverting to the circumstances narrated in the interested relations of those concerned immediately in this transaction, we are authorized to suspect fraud in every part of it. The suffering and feeble state of the dying monarch did not leave him sufficient strength either of body or mind to form, and still less to express, a wish upon the subject of his faith. He could not resist, or signify his resistance to the artful persuasions of the Duke, who had acquired a powerful ascendancy over his mind, and had been in the earlier part of his life accustomed to direct his actions. The Duke of York and Dutchess of Portsmouth were determined to make him die a catholic, the plot was laid, the priest was prepared, and when the design was effected, it creates no surprize to learn that a report prevailed of the conversion of the King not being his own spontaneous act, but occasioned by his brother, who had beset him and forced him to declare himself a catholic. In the hands of the Priest he was only a mere passive instrument; and, if the Duke had importuned him, he must with equal meekness and docility have declared his conversion to any other faith, and submitted to its ordinances.

Fox, App.  
p. xxxiv.

Imprudent  
conduct of the  
new king.

The Duke of York succeeded to the crown with the same temper, habits, and prejudices, with which he had



been an impatient spectator of his brother's versatile system of Government; and when he unexpectedly continued the officers of the royal household and forbore to dismiss the late Ministers, his catholic advisers were not quite pleased and reminded him, that he had suffered more through Lord Arlington (one of the Ministers he allowed to remain) from his having first inspired the late King with those timid councils, which brought him so near to ruin, than any other person. The evil councils of these evil spirits were, when the reign was further advanced, unfortunately too much attended to, and the following extract from James's diary affords a striking lesson to Kings of the necessity of being cautious in the selection of their confidential advisers. "In the case of  
 " the Bishops there is no doubt," he is made to say, " but  
 " the King had done better in not forcing some wheels  
 " when he found the whole machine stop. But it was  
 " his misfortune to give too much ear to those who put  
 " him upon such dangerous councils with intent to widen  
 " the breach between him, and his subjects. But his  
 " prepossession against the yielding temper, which had  
 " proved so dangerous to his brother, and fatal to the  
 " King his father, fixed him in a contrary method. He  
 " had always preached against the wavering councils  
 " of his brother; and seeing the other Bishops made not  
 " the same difficulty, and since many complied, he  
 " thought the rest ought to do the same. The King  
 " therefore gave more easily into the chancellor's opinion,

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V.Fox, App.  
p. xlvii.Macph. Pap.i.  
p. 152.

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“ who thought that a mere reprimand was not sufficient.  
 “ It was however, a fatal council.” There is something disingenuous in the defence James here makes for himself, particularly in attributing to the advice of the chancellor the fatal measure, which he admits he was perfectly prepared to have adopted, if that advice had not been given.

James spread a  
 report that  
 Charles died  
 a catholic.  
 Fox, p. 95.

One of the first steps of James's reign is, as Mr. Fox observes, generally considered to have been an ill advised instance of zeal, for he caused to be circulated a report that the late King had died a catholic, and then to be published Father Huddleston's attestation of the fact, with copies of two papers shewing the necessity of a visible church and guide found in his strong box, and written with his own hand. These papers were also published separately, and pains taken to have it believed that they had been drawn up, as well as written out, by Charles himself. The new King shewed them to the Archbishop of Canterbury, (Sancroft) who observed that he did not think Charles had been “ such a controvertist,” but Dalrymple, without citing any authority, gives the answer of the archbishop more at length. It is not probable that Charles, if he had the ability would have had the inclination to have drawn up these papers himself, or that he ever was in a situation, in which he would have taken the trouble to copy them, except indeed during the few days of his confinement at Moseley, in

Macph. Pap. i.  
 p. 143.

Dal. Mem. i.  
 p. 123.

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Father Huddleston's chamber. Charles is said to have conversed with him the greatest part of that time, or amused himself with his books. He read and approved the Short and Plain way to the faith and church, written by Mr. Richard Huddleston, was forcibly struck with the arguments drawn from succession, and that this was the product of a real solid conviction, the papers found after his death are appealed to by Mr. John Huddleston, the priest, who attended him, and by him are said to "seem" even to the very manner of expression, to breathe the "same spirit, and genius with that of the book." Upon this subject there could not be found a more competent judge, he was the nephew of the writer, and by him that book was both admired and studied, and had been recommended to the perusal of Charles. And if Charles was in the humour, at this period of his life, to read and converse upon the subject, is it an unreasonable conjecture that Mr. John Huddleston himself drew these papers up from his uncle's book, and that Charles copied them in his study? The Duke of Ormond, was perfectly satisfied that they were in the hand-writing of Charles, and that he was too lazy to compose them, but ingeniously suggests, by way of accounting for his having taken the pains even to copy them, that his Majesty did it, "by way of penance or on some other occasion."

Carte's Ormond, ii. p. 256.

James in circulating these documents, might have had in view the removal of apprehensions, entertained by his



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subjects, of the danger to the protestant establishment from his public profession of the catholic faith, by disclosing that its best friend, its restorer and protector, had been of that religion. Perhaps too he might gratify his own spleen, by shewing that the King, who would have consented to exclude him from the throne because he was a catholic, was himself one also. The consequence of this was, that the Whigs, overjoyed at being acquainted with the fact from authority, eagerly seized the opportunity to give currency to it. They used it not only as a justification of their own conduct, but as an incitement to rouse the nation to a higher sense of danger, from the religion they feared and detested, having been secretly and insidiously favoured by a former King, as well as openly professed by the present one. Of course, they did not make or attend to objections to the authenticity of the papers, and still less to the inference James wished to be drawn from them. These papers therefore have been considered as decisive proofs of his having adopted the sentiments contained in them long before his death, and the truth of this fact has generally been assumed by historians of all parties. But the evidence is very slight indeed, as has been shewn in a former part of this section, that Charles ever was thoroughly convinced of the truth of the catholic religion, or that he willingly died in the bosom of that Church. The discovery of these papers under the circumstances just mentioned, is not likely to make much impression

upon any mind, not already prepared to think favourably of the evidence.

A minute examination of the contents of the correspondence, contained in the Appendix to Mr. Fox's Work, might lead into a tedious repetition of former arguments, for in the third and fourth sections of this Work, all the objections urged by Mr. Rose against the opinion of Mr. Fox are answered, and the documents he has cited observed upon. But in further support of Mr. Fox's opinion, it is intended here to present the reader with a very slight and short sketch of the conduct of James and Lewis towards each other in their negotiations; referring to the very able reasoning of Mr. Fox for further satisfaction upon the subject.

Conduct of  
James and  
Lewis ex-  
plained.

There was in many respects a great similarity of temper between these two monarchs. Each seems to have made his religion subservient to his ambition in the early part of life, and both were attached with enthusiastic zeal to the catholic cause, as they advanced in years. Lewis exhibited the selfish narrow spirit of a bigot at a more early period than James, for he was a King from the time when only five years of age, and, for a large portion of his long reign, surrendered his conscience to the guidance of priests and women, and became a persecutor; having power, he abused it. James continued for many years a persecuted

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subject, and his hopes certainly for some time after, as well as before he succeeded to the throne, could not rationally be extended beyond a toleration for himself, and others who thought like him. And possibly he might be sincere in his death bed declaration, that he had never intended more. Hence may have arisen, in part, the difference between the conduct of these Kings observable in their correspondence. James's first object was to establish himself upon the throne and increase his power; Lewis's was to keep him always in a dependent state and occupied in domestic strife. The conduct of the former was therefore more honest, and of the latter more deceitful. It would not have been surprising if the overbearing and impatient spirit of James, disdaining in his own kingdom to be considered as an offender against its laws, had made the establishment of his favourite religion the first motive of his actions, though he had felt but slightly the impulse of religion. He had been taught that the favour and support of the catholics were necessary for the existence and support of monarchy; and for the purpose of strengthening his power, he might, independently of any religious motive, have most ardently struggled for a toleration for them. To what extent his private wishes were extended, must be matter of conjecture.

Perfidious conduct of Lewis.

When the royal brothers returned from exile, it has been stated before that they looked to the power of



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France as the best, and indeed the only support of the throne, but they had to treat with a court, which naturally looked more to its own interest, than to theirs. Besides Lewis had been taught, as a maxim to prevent any interruption in his designs upon the continent, that the King of England was to be kept in a constant state of dependence for his crown upon him, and prevented as far as possible from assembling or acting cordially with his Parliaments. From this maxim he never departed during the reign either of Charles or his brother, though, upon the accession of the latter, he changed his system in some respects. In the before-mentioned memorial of Blancard, who had been confidential secretary to de Rouvigny, when Ambassador from France, the policy of Lewis with respect to Charles is fully explained in these words, "The King of France would have been  
 " very sorry that he" (i. e. Charles) "had been absolute  
 " in his states; one of his constant maxims, since the  
 " re-establishment of that Prince, having been to set  
 " him at variance with his Parliament, and to make  
 " use sometimes of the one, sometimes of the other, and  
 " always by money to gain his ends." In the French correspondence, this perfidious system is displayed in several letters; it may be discovered in a dispatch from Courtin the French Ambassador, dated the 12th of July, 1677, and Barillon on the 11th of April, 1678, assumes that the most sensible of the popular party, "know well it  
 " it is not the interest of France, that a King of England

Dal. Mem. ii.  
p. 245.

Dal. Mem.  
ii. p. 136.

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V.Dal. Mem. ii.  
p. 353.

Ib. p. 341.

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“ should be absolute master, and be able to dispose according to his will, of all the power of the nation.”

On the 5th of December, 1680, he expressly states the principles of his royal master in these words, but with regard to the future. “ I see what your Majesty has most at heart, is to prevent England from being re-united by an accommodation, between his Britannic Majesty, and his Parliament.” When the Duke of York, irritated at being sent out of England, and alarmed at the refusal of a pardon for himself, projected a civil war against his brother, in the same letter dated the 15th of November, 1680, Lewis gave instructions to Barillon on the one hand to encourage the Duke to make a stand in Scotland, and on the other to assure the republican party in Parliament that he would protect the privileges of the nation. And on the 23rd of November, only eight days after, he directs him to encourage the King to follow a firm and bold conduct to his subjects in his present situation. The proceedings against Lord Danby, and the manner, in which during the latter part of Charles's reign, Lewis played off the King and the leaders of the popular party against each other, may be referred to in further proof of the system, by which the conduct of Lewis was uniformly directed. Pursuing this policy, we find him constantly inciting Charles to violent measures for the increase of the royal authority, and to secure an arbitrary sway. Charles however was too prudent to

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proceed to extremities, he frequently advanced till the danger was imminent, but withdrew his pretensions when hopeless of success. But the haughty obstinate temper of James, instigated by the insidious policy of Lewis, could not brook the temporizing measures of his brother, the councils he gave were of the most violent nature, and his mind was in a constant state of irritation and alarm, because they were not always listened to. He preferred force to artifice, and his principle was to subdue, not conciliate opposition.

Only three days after the accession of James, the Earl of Rochester gave hints to the French Ambassador, that supplies of money from France would be necessary to support the royal power. But Lewis was tired of paying subsidies, and disgusted with the little attention Charles had shewn to his engagements. He, therefore, set out with a determination to treat with the new King upon the principle of entering into no treaties, and of advancing no money unless in cases of extreme urgency, and yet with an anxious wish to prevent him from making any continental engagements, injurious to the interests of France. Expecting that the accession would be attended with tumults, if not with open rebellion, Lewis determined to anticipate the wishes of James by instructing Barillon to make an offer of five hundred thousand livres, (about nineteen thousand pounds English money) in case of necessity. The manner, in which the offer of this paltry

Money negotiations.



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sum was received, has been well described by Mr. Fox. But Lewis pretending that the favourable reception of James, as King, did not render even this assistance necessary, took care that no part of this money should be paid.

James and  
Lewis did not  
act as bigots.

The object of James, so far as religion was concerned, was, as appears from the quotations made by Mr. Rose, and already observed upon in the third section, a complete toleration for the catholic religion; it was what his brother had also had in view, and what Lewis had long before endeavoured to get established here. But even upon this subject James spoke and acted, not as a bigoted fanatic, but a cool headed politician; he described it not only as desirable for promotion of the cause of religion, but as necessary to confirm and increase the royal power. In like manner, Lewis exhibited no symptoms of bigoted zeal; before he had determined upon the part he should take, he inquired in a private note what was the strength of the catholic party, and he afterwards connected together the royal authority and the catholic cause, considering them as inseparably united, and upon this basis the correspondence of the two monarchs was for some time conducted.

Religion not  
the sole ob-  
ject.

The negotiations for money were managed by the Earl of Rochester, then High Treasurer, but so remote was the contingency of popery being tolerated in England, that between him and Barillon, there was no con-

versation upon the subject of religion. Rochester's known attachment to the church of England might have rendered it dangerous, but this concealment shews that the object in view was at least of an ambiguous nature, and not confined to religion alone, unmixed with other objects. If Rochester had suspected the established church was to be destroyed, as Mr. Rose supposes, would he have submitted to be the negotiator? or would it have been prudent to have employed such an agent in such a service? The arguments used by Rochester were the necessities of the King, and his anxiety for the establishment of his authority, and the giving of a settled form to the Government. James was anxious that his designs in favour of the catholics should be kept secret till after the Parliament had granted the revenues, but with Barillon, he and some of his Ministers, more in his confidence than Rochester, conversed upon the subject without reserve.

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Fox, App.  
p. lviii.

Barillon, not having received instructions for his conduct, could only speak generally of his master's good intentions, and Lord Churchill being sent to Paris to ask assistance from Lewis, we may account for no notice being taken in the correspondence of any money transactions for a few days. But during that time, James had openly testified his attachment to the catholic religion by going publicly to mass, and Lewis, who had not before, either by himself or his Ambassador, encouraged James in his

Lewis introduces the subject of religion.

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designs in favour of religion, highly applauded his conduct, and artfully suggested that he should not have approved of a long dissimulation of the religion he professed. Shortly afterwards, pretending to anticipate that James would soon make application to the Pope to appoint Bishops, whom he probably would select from the clergy of the church of England, Lewis cautioned him to take care they were not infected with Jansenism, which might be in its consequences, little less dangerous than the heresy, from which the country was about to be delivered.

Lewis declines  
to advance  
money.

Notwithstanding the intreaties of James, Lewis refused to advance any money, and though those intreaties became still more pressing on the approach of the meeting of Parliament, when James was alarmed lest the revenues might be granted him only for a limited time, yet Lewis remained unmoved. A treaty for a considerable sum to be paid down, and a subsidy for three years of two millions of livres *per annum* was proposed and rejected; but at length Lewis remitted so much money to Barillon as to make up, with what he had in his hands before, two millions of livres, but with orders to permit James to have only four hundred thousand livres to bribe the Members of Parliament with.

When Lord Churchill's mission ended does not appear, but, about the 16th of April, negociations were going on with Barillon for pecuniary assistance, though not exactly



of the nature, which the French King expected. For Barillon expresses his surprize that Lord Rochester had proposed to him no new treaty, though he had acknowledged that the safety of James depended upon France, and upon the catholic religion being tolerated. Lewis, perhaps chagrined and disappointed that James had not been reduced to a situation of dependence upon him, on the twenty fourth of April, 1685, sent explicit instructions to his Minister to make no advances unless the conduct of the Parliament should be so violent as to force him to dissolve it, or he should meet with such obstacles in his designs for the catholics, as to make it necessary to employ his forces against his own subjects. From this time, Lewis who never lost sight of that system of policy by which his conduct had been always governed, and is alluded to by Mr. Fox, took every opportunity of exciting James to press for measures in favour of the catholics, well knowing that there could be nothing so distasteful to the people of England, or so dangerous to the King.

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V.Fox, App.  
p. lx.

Ib. p. lxiii.

Fox, p. 85.  
Lewis excites  
James's zeal  
for religion.

Barillon afterwards (on the 30th of April) apprized his master that the Parliament was inclined to grant the revenues to the King for life, and describes Lewis as having at heart the further object of a free exercise of the catholic religion. But it is clear that he did not look upon James as acting the part of a bigot, for

Fox, Ap.  
p. lxx.

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V.Fox, App.  
p. lxxi.Zeal for the  
catholic re-  
ligion made  
Lewis's sole  
motive.

he expresses a persuasion that he would not abandon the catholic cause interms, which convey a doubt that possibly he might do so. The answer to this letter is perfectly explicit, for (on the 9th of May) Lewis in a few words, which precede the passage quoted by Mr. Rose, but are omitted by him, repeats the argument which Barillon had urged to shew that a compliance with the wishes of James, would be for his service, "as well as strengthen him in the resolution to establish *at whatever price it may be* the free exercise of our religion as, &c." Lewis then after intimating some doubts of the firmness of James, which have been observed upon in the third section, repeats his resolution to advance no more money except in the emergencies he had before mentioned. It may be observed that in this letter, Lewis, aware that James was likely to obtain the revenues without much opposition, gives importance to the catholic religion, which before had been chiefly desireable as a support of the royal power. It is now set up not only as the principal, but, more properly speaking, "the *sole* and *only* motive" for having placed the sum of two millions of livres in the hands of Barillon to succour the King of England in case of necessity. Of the truth of this being his sole and only motive the reader may judge by referring back to the earlier letters in the correspondence, in which the catholic religion is either not mentioned at all, or as secondary to the affirmance of the royal power.

A difference of opinion prevailed between Barillon and his master about the manner, in which it would be most prudent to manage James, in order to prevent his interfering to the prejudice of the French King upon the continent without engaging to pay him subsidies. Barillon relying upon his own intimate knowledge of James's character, pressed to be permitted to advance him money, to treat him with confidence, and trust to his gratitude; but Lewis continued inflexible, and by his obstinacy his own plans were ultimately defeated. Barillon, however, did extort from him an order to pay four hundred and seventy thousand livres, the balance of the arrear of subsidies left unpaid to Charles. This is the only sum mentioned in the correspondence to have been ever paid\*.

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V.Lewis only  
paid the old  
subsidies.

The coolness with which Lewis received the advances of James, may have arisen from his not having been yet sufficiently humbled, and also from his conduct with regard to the continental powers, particularly the States General, and Spain. Upon these subjects, Lewis was full of suspicions, and his Minister received repeated orders to be upon the watch. At last James failing in his attempts to procure a supply from France, renewed the defensive treaty with the States General, which had been the source of so much uneasiness to Lewis.

Dal. Mem. iii.  
p. 48.James breaks  
with Lewis.

\* Sir John Dalrymple states that Barillon, in a letter of the 25th of October 1685, says he had paid in all only eight hundred thousand livres. Dal. Mem. iii. p. 41.



SECTION  
V.Lewis dis-  
pleased.Fox, App.  
p. xcix.

On the 30th of May, 1685, the royal assent was given to the act, for settling the revenues on the King for life. Lewis at this time was highly displeased, and upon Barillon again remonstrating, and requesting an order to pay to James 100,000 crowns, besides the arrears of the subsidies, Lewis wrote a letter, (15th of June,) of which it is impossible to mistake the meaning. He begun by assuming that James, having obtained all he wished from his Parliament, could not want any pecuniary assistance; and then stated that still there remained, for the satisfaction of both Kings, to obtain the repeal of the penal laws in favour of the catholics, and the free exercise of their religion, and this was the principal motive with him for remitting so much money. That, *as James did not think proper to make the effort at present, he would not press it, but notwithstanding he should think, from the good disposition of the Parliament, that would be the time to carry his wishes into effect, for reasons which he detailed; and if the King should take this part, and find any obstacle not to be conquered without his assistance, he would be ready to give it as soon as he had notice. But till he took this resolution and executed it, he would not make any change in the orders he had given.* This conduct of Lewis is easily accounted for by the recollection that James, then being in possession of an ample revenue for life and his throne no longer in danger, the assistance of the catholics was not so necessary, as at the commencement of his reign. James thus si-

tuated was not inclined, whether through fear or policy, to make any rash experiments in their favour. And Lewis had too much sagacity not to perceive, that if the question of religion was not agitated, there was a prospect of the King being able to keep his Parliament and people in good humour, and perhaps at no distant period to accomplish quietly every object of his wishes. To see a King of England in the full and peaceable enjoyment of arbitrary power, was not consistent with the shortsighted policy of Lewis, who erroneously imagined that arbitrary power gave national strength; but in a subsequent period of his reign he was taught by the brilliant campaigns of Marlborough the important truth, that a free government affords more ample means of maintaining the independence and extending the glory of a country. As the security of the throne was now provided for, and could no longer be made a pretence for his interference in the domestic concerns of England, he changed his ground, and used every persuasion that he could address to the avarice or pride of James to awaken his religious zeal, and encourage him to insist upon an immediate toleration for the catholics at all hazards. James's prudence however still triumphed over his bigotry, and he seems to have been intimidated by the firmness and violence, with which his Parliament, prepared to resist every effort of the crown in favour of the catholics. Even his haughty spirit was subdued, and it may be doubted whether for a moment his mind

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James not  
zealous for re-  
ligion.

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Fox, App.  
p. cii.

Ib.

was not nearly in the same wavering state, which he had so strongly reprobated in his brother. Possibly, the excitement of Lewis might operate upon his wayward disposition, as a sufficient reason for not pursuing the object, which he had himself at heart. His imperious temper might not submit without repugnance to be dictated to by an equal, a foreign potentate, who had displeased him, and upon whom at that moment, he felt no impulse of passion or interest to make himself dependent. Lewis was determined that he and James should fully understand each other; and for this purpose, on the 13th of July, took a decisive step, by sending an order to withdraw from Barillon's hands all the money he had lodged with him. In consequence, Barillon was compelled to disclose, which he had till then contrived to avoid, the resolutions of Lewis, and the intelligence was received by James and his Ministers, with almost as much astonishment and consternation, as that of the remittance of money for the use of James in case of necessity had been received a few months before with surprize and joy. Barillon then communicated his master's wishes, and the terms, upon which he would still be ready to assist James with money; he declared that the establishment of the catholic religion (meaning of a toleration for it) was the principal motive with Lewis, and if James would establish such a toleration, and found it attended with difficulty, Lewis would be ready to assist him. Barillon upon this occasion, for the first



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time, spoke to the Treasurer upon the subject of religion, but contented himself with only opening the business and mixing religion with it. The Treasurer did not enter into that question. To James and Sunderland, Barillon was more explicit, and the latter declared it was all the end the King had in view, and argued that he could have no other end for *without it he could never be in safety*. How far these monarchs were afterwards reconciled to each other, or what communications they had does not satisfactorily appear. But we discover that Lewis was not pleased with James's resolution to re-assemble the Parliament, (which had been prorogued) in order to procure a supply to keep up his standing army, and to get the Test repealed. The experiment did not succeed, for the Parliament proved so refractory that he was obliged to prorogue it, after it had sat only eleven days.

Lewis not  
pleased at  
calling a se-  
cond parlia-  
ment.

During this second session of the Parliament, Lewis was under great alarm lest James should be negotiating a treaty with Austria, and gave orders to Barillon, in case he was found taking part with his enemies, to renew the intrigues, which had been carried on in the former reign with Members of Parliament, to give him trouble in that assembly. At the same time he instructed Barillon *artfully to insinuate to James upon all occasions, that it was his interest to employ his authority for the reestablishment of the catholic religion*, and not allow it to be longer exposed to all the penal laws, which had been passed

General policy  
of Lewis ex-  
plained.  
Fox, App.  
p. cxxxvi.

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against it in the former reigns. This may be considered as a declaration, made by Lewis himself, of his object and intentions. Having thus disclosed the true motive of his conduct upon one occasion, it does not seem uncharitable to assign the same motive, when we find him acting in the same manner, in similar circumstances.

Lewis still  
presses re-  
ligion.

Fox, App.  
p. cxxxviii.

Ib. p. cxlii.

Ibid. cxliii.

Ibid. cxlv.  
cxlviii.

After the Parliament was assembled, Lewis pursued the same system, and ordered Barillon to encourage James to persist in his design for religion, but in such a manner as to evince that he was fearful he would not. Barillon, in the mean time, renewed his intrigues with Members of the Parliament, and gravely told his master, that the having some Members always dependent upon him might upon some occasions be useful to the King of England, and to the good of religion. The policy of the French court at this time is not easily accounted for unless from its inability to advance any money, for so strong was the apprehension which Lewis entertained of being called upon for advances, that Barillon described himself as afraid of speaking to James about the renewal of the treaty with Spain, which he knew was in agitation, lest it should be followed immediately by proposals for money. Barillon now considered France as released from all engagements with James, and ventured to make some further remonstrances with Lewis on his conduct, but, if he was determined to persist, advised the giving of a pension to Sunderland, which was immediately consented

to. Lewis remained fixed in his resolution, and mischievously declared his approbation of James's firmness in maintaining the catholic officers, and *not suffering the religion he professed to be longer exposed to the penal laws, which could only be productive of good effects for his reputation, and the security of his Government.*

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Here close the very important documents, which Mr. Fox has added to our former stores of knowledge, but which Mr. Rose for reasons of his own, asserts to be of no value at all; of this the reader can best judge for himself. The effect of these papers is not to be collected from any one or two separated from the rest, they must be taken altogether. The reader will perhaps be surprized to find that James, so far from appearing in the character of the mad hot headed bigot described by Mr. Rose, seems to have conducted himself with the refined policy of a consummate statesman, and to have been more than a match for the monarch he was treating with. Highly displeased with the refusal of a subsidy from France, he assumed a tone of independence and renewed the treaty with Spain. Ofc ourse, all confidential intercourse ceased between these former friends. James was disappointed in his attempt to manage the second session of his Parliament, but he was not accustomed readily to relinquish an object, he still trusted to his army and his own resources for enabling him to obtain a toleration for the catholics,



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and in December, 1686, after an ineffectual effort to convert Rochester to the catholic religion dismissed him from office.

This was considered by the established church as a declaration of war; and James seems afterwards to have proceeded regularly from one irritating measure to another, till the trial of the seven Bishops deprived him of the support of the church of England, and left him helpless upon the throne.

Mr. Fox's opinion correct.

It remains to be observed that Mr. Fox and Mr. Rose agree that James was a lover of power and a bigot; and Mr. Fox would not have denied that, in the latter character, the secret wish of his heart was to establish the catholic religion in England. But at first, he must have almost despaired of ever being able to accomplish it, and his chief exertions were directed to another point, the acquisition and peaceable possession of absolute power, through which, if at all, he could entertain hopes of being able to shew favour to the catholics. From prudential motives, therefore, he for some time confined his efforts, and probably his hopes, to the procuring for them only a complete toleration; but Mr. Fox supposes that the astonishing facility, with which the attainment of his political objects was attended, the subserviency of Parliament, the infatuated love of the people for him, and

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the despair of the party opposed to the court after the execution of Monmouth, and Argyle, encouraged him to proceed to effect his ultimate object; and that, in the latter part of his reign, his actions were intended to introduce the establishment of his favourite religion. Mr. Rose's proposition on the contrary is, that James acted the part of a bigot from the first moment of his possessing the crown, and sought the establishment of the catholic religion, on the ruin of the Church of England at all hazards, and without attention to his own power or any personal considerations. But in answer to this we have shewn that his conduct, at least for some time, was guided by prudence, and even caution, the security of his power his primary object, and a complete toleration for the catholics, all he ventured to propose himself, and more than he dared to avow, notwithstanding the promised assistance, the threatning and coaxing of Lewis.

It has been said that, in the latter part of his life James repelled with indignation the charge of his having entered into money engagements with France inconsistent with the interests of his kingdom and people, and declared that he never made any with that power. This is probably true, but it appears that he was enabled to make that declaration, not through any merit of his own, for during a large portion of his reign, he sought to renew with France the disgraceful treaties for

James never  
bound by any  
treaty with  
France.

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James treated  
with respect  
by Lewis.

subsidies, which had occasioned so much mischief in the former reign, and was displeased that Lewis would not enter into any with him. At the same time, we ought not to rob the memory of James of the merit of having assumed with France a tone and used a language, which his brother had not the spirit to adopt. Upon perusing the correspondence in the two reigns, there is a very remarkable difference; after James came to the throne, there is no appearance or acknowledgement of dependence upon his side, he asks supplies because without them he shall not be able to compass the design, which Lewis wished as well as himself, and offers a return of gratitude, but as the equal of the person he is applying to. In the letters between Barillon and Lewis he is treated with respect, Barillon always describing him as a determined character, having a will of his own, and not surrendering his understanding to the guidance of others. In short he was treated by them, as a person to be suspected and watched, and counteracted, but not easily to be influenced, and never to be commanded.

General ob-  
servation.

With one observation this section shall be concluded. How grateful to Providence ought this happy country to be, that these two monarchs did not understand one another better. Had Lewis followed Barillon's advice, advanced money to James, and readily assisted him in increasing the royal authority and carrying into



effect his measures in favour of the catholic religion, SECTION  
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James might in return have been prevailed upon, to 

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have taken part in the ambitious schemes of Lewis. And a cordial union between them must have extended the territories and increased the power of France, annihilated the Protestant States upon the Continent, and deprived Britain, perhaps for ever, of the blessings, which a free constitution has bestowed upon her people.

The first of these is the fact that the United States is a young nation, and that its history is a history of growth and expansion. The second is the fact that the United States is a nation of immigrants, and that its history is a history of the struggle for assimilation and the creation of a new American identity. The third is the fact that the United States is a nation of free men and women, and that its history is a history of the struggle for liberty and the establishment of a new political system.

The fourth is the fact that the United States is a nation of great natural resources, and that its history is a history of the struggle for the development of these resources and the creation of a new economic system. The fifth is the fact that the United States is a nation of great scientific and technological achievements, and that its history is a history of the struggle for the advancement of knowledge and the application of science to the betterment of the human condition.

The sixth is the fact that the United States is a nation of great cultural achievements, and that its history is a history of the struggle for the preservation and the promotion of the arts and the sciences. The seventh is the fact that the United States is a nation of great moral and ethical achievements, and that its history is a history of the struggle for the establishment of a new moral and ethical system.

The eighth is the fact that the United States is a nation of great political achievements, and that its history is a history of the struggle for the establishment of a new political system. The ninth is the fact that the United States is a nation of great social achievements, and that its history is a history of the struggle for the improvement of the social conditions of the people.

SECTION THE SIXTH.



## DEEDS AND RECORDS

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Mr. Fox gives currency to no charges against Sir Patrick Hume except of deserting the Earl of Argyle.—Argyle does not name him.—Treachery imputed neither by Argyle nor Mr. Fox.—The charge against Mr. Fox never explained, and founded on a Mistake of Mr. Rose.—Cochrane and Hume principal causes of the rout.—Delicacy of Argyle towards Sir Patrick Hume.—Mr. Fox only narrates, and anxious to be fully informed.—Peevish observations of Mr. Rose.—Mr. Fox desirous to obtain Family Papers.—Mr. Rose did not offer the Marchmont Papers.—Liberal Conduct of the present Earl of Lonsdale.—Mr. Fox attacked for a supposed Offence of his Editor.—The Exclamation of Argyle when taken.—Mr. Fox compares the Spirit of Montrose and Argyle, only as it appears from their verses.—Characters of Montrose and Argyle.—It was intended to torture Argyle.—History of Torture in England.—Incidents relating to Argyle disputed.—Mr. Fox does not call regular Soldiers Assassins, or cast Reflections on the Supporters of Kings.—Sir Patrick Hume indefensible.—His conduct contrasted with Argyle's.—Want of Materials concerning Monmouth's Invasion.—Mr. Fox misrepresented.—Mr. Fox had no Wish to degrade Monarchy and did not sacrifice the Truth of History to Party.





## SECTION THE SIXTH.

WE are now arrived at the fifth and last section of Mr. Rose's Observations, and are informed that here little opportunity will be afforded for the exercise of industry, "because in the narrative of Sir Patrick Hume, "comprizing every thing material that passed relative to "the expedition to Scotland, will be found a complete "justification of him from the charges unjustly made "against him for faction, cowardice and treachery to "which Mr. Fox has given currency." An inquiry, whether Mr. Fox has given currency to these charges, will naturally precede an examination whether the narrative is a justification of Sir Patrick Hume.

### SECTION VI.

Mr. Fox has not given currency to charges against Sir Patrick Hume.  
Rose, p. 163.

The spirit, in which Mr. Rose's Observations are penned, may be distinctly perceived in the manner in which he has treated Mr. Fox upon this occasion; a wilful departure from truth or candour is not imputed, but a

Except of deserting Argyle at last.

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Fox, p. 193.

Narr. p. 64.

perversion of facts, and a petulance in argument pervade a large portion of what he has written. It is a remarkable circumstance, that the ill treatment of the ancestor of his friend, so much complained of, is no where fully explained by Mr. Rose, and from no part of his work can the reader learn the precise extent of Mr. Fox's supposed delinquency. The first thing objected to is a passage in the historical work, stating "that in their last extremity Sir Patrick Hume, and Sir John Cochrane would not stay even to reason the matter with him, whom at the onset of their expedition they had engaged to obey, but crossed the Clyde, with such as followed them, &c." Mr. Rose does not deny that Hume and Cochrane had engaged to obey Argyle, so that the only question is whether they deserted him, and as to this fact, Mr. Rose must admit there cannot be a higher authority than the narrative of Sir Patrick Hume himself. He says he was absent when Sir John Cochrane parted with Argyle, but "an honest gentleman, who was present, told mee the manner of his parting with the Erle. Argyle being in the roome with Sir John, the gentleman coming in, found confusion in the Erle's countenance and speach: in end he said, Sir John, I pray advise mee what shall I doe: shall I goe over Clide with you, or shall I goe to my owne countrey? Sir John answered, My Lord, I have told you my opinion; you have some Highlanders here about you, it is best you goe to your owne countrey with them, for it is to no purpose for you to goe over

“ Clide. My Lord faire you well; then called the gentleman come away Sir; who followed him when I met with him.” In another part of the narrative the story is thus continued. “ But I met Sir John with others accompanieing him; who takeing mee by the hand, turned mee, saying my heart goe you with mee: whither goe you said I? over Clide by boate said he: I, where is Argyle? I must see him: He, he is gone away to his owne countrey, you cannot see him; I, how comes this change of resolution, and that wee went not together to Glasgow? He, it is no time to answer questions, but I shall satisfy you afterward. To the boates wee came, filled two, and rowed over.”

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ib. p. 63.

The second part of the charge arises from Mr. Fox when giving the substance of a paper, intended for a letter, written by Argyle while in prison, making use of these words, “ In recounting the failure of his expedition, it is impossible for him not to touch upon what *he deemed* the misconduct of his friends; and this is the subject upon which, of all others, his temper must have been most irritable. A certain description of friends (the words describing them are omitted) were all of them, without exception, his greatest enemies, both to betray and destroy him; ——— and ——— and (the names again omitted) were the greatest cause of his rout and his being taken, though not designedly he acknowledges but by ignorance, cowardice, and faction. This sentence

Faction,  
cowardice,  
and treachery,  
not charged  
against Sir  
Patrick Hume.  
Fox, p. 197.



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Argyle does  
not name Sir  
P. Hume.

“ had scarce escaped him, when notwithstanding the qualifying words, with which his candour had acquitted the last mentioned persons of intentional treachery, it appeared too harsh to his gentle nature, and declaring himself displeased with the hard epithets he had used, he desires they may be put out of any account, that is to be given of these transactions.” It is observable that Argyle names, neither the description of friends, who were his greatest enemies, nor the two persons, who were the principal cause of the failure of his scheme, and his own misfortune, so that Sir Patrick Hume and his friends would have nothing to complain of, if they had not had some reason to suppose that he was included in one, or other of the descriptions. The delicacy of Argyle is most striking, he is writing to a private friend, who, he takes for granted, will not be at a loss to fill up the blanks, and was acquainted with the ill humour, with which the expedition was embarked in: to that person, as he evidently wished that an account of his transaction should be published, it was necessary that he should communicate the particulars of what had passed. Mr. Fox in his Historical Work, from similar motives of delicacy and a rigid adherence to his determination to be accurate in his statements, purposely leaves the blanks as he found them, and Sir Patrick Hume’s name is not mentioned. Mr. Rose therefore, is not authorized to charge him, as he has frequently done, with having in his Historical Work treated Sir Patrick Hume with injustice, and this

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is to be added to the long list of mistakes committed an author, who boasts of being accustomed to official accuracy. But two notes are inserted by the Editor, which Mr. Rose might have observed, are marked with an E. to distinguish them and prevent any mistakes as to the writer. In the latter of them we are told, that "after an ineffectual research to recover the original MS. Mr. Fox observes in a letter, "*Cochrane* and *Hume* " "certainly filled up the two principal blanks, with respect " "to the other blank it is more difficult, but neither is it " "very material." Accordingly, drawing the inference from Mr. Fox's letter, the Editor says, "the blanks in the " "text, and in the preceding note may be filled up thus, " "*(Cochrane's)* friends were our greatest enemies," &c. " "and indeed *Hume* and *Cochrane* were the greatest cause " "of our rout," &c. For this information, the Editor is certainly intitled to the thanks of the reader, for without it, he might have been at a loss to fill up the blanks, and understand the sentence. Mr. Fox in his Historical Work declares no approbation, or disapprobation of the words and expressions made use of by Argyle, he simply narrates the fact, and it appears from the note that he was not perfectly satisfied in his own mind, how one of the blanks should be filled up. That Mr. Fox was right in his conjecture, respecting the name of Sir Patrick Hume being the proper one to fill up another of these, Mr. Rose takes for granted, but that conjecture was made in a private letter, not in the Historical Work, and it is

Fox, p. 198.

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not correct in him to complain of injury done to the character of the ancestor of his friend in a work, in which he is not mentioned, or to make an author answerable for the acts of his editor, done after his decease.

Treachery not  
imputed by  
Argyle or Mr.  
Fox.

In the beginning of this section we mentioned that Mr. Rose had described the charge against Sir Patrick Hume to be of "Faction, cowardice, and treachery." Mr. Rose has more than once altered the terms of a proposition before he has proceeded to answer it, and in this instance the sense of the passage, objected to, is grossly perverted by the terms, in which he professes to convey the meaning of it. The charge of *treachery* against Sir Patrick Hume is neither expressed nor implied in the Earl of Argyle's letter, in Mr. Fox's text, or in the Editor's note, and Mr. Rose himself, in the ensuing page reverts to the words as they really stand in the Earl's letter, namely, *ignorance*, *cowardice*, and *faction*. In a moral view there is a wide difference between ignorance, and treachery; and if Mr. Rose had not misunderstood the passage, or forgotten the precise words of it, possibly his feelings might not have been so highly irritated, and he might have perused Mr. Fox's labours in a more placid temper, and with greater satisfaction than he has done.

The Charge  
against Mr.  
Fox not ex-  
plained.

The reader is now in possession of the facts, and the charge against Mr. Fox is, that he has given currency to



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the misrepresentations cast by the Earl of Argyle upon the character of Sir Patrick Hume. As has been already observed, Mr. Rose has no where distinctly brought this charge before his readers, but has contented himself with a statement sometimes loose, and not always correct. But he has not exhibited any marks of candour in endeavouring to have it believed that the charge came originally from the pen of Mr. Fox himself; for instance, in his Introduction, when stating his reasons for publishing the Narrative, he says, "I allude to the censure contained in "the third chapter of Mr. Fox's work on Sir Patrick "Hume," &c. "affecting equally the honour, the courage, "and the talents of that eminent man." This is the fullest description of Mr. Fox's offence to be found in Mr. Rose's book, until he comes to the fifth Section, in which by way of giving a striking specimen of accuracy, he says, "Sir Patrick Hume, and Sir John Cochrane, " (for the censure applies equally to both), are first "accused of having deserted the Earl, afterwards with "being 'his greatest enemies, 'both to betray and to "destroy him, and finally with being the greatest cause "of his rout, and of his being taken; though not design- "edly, but by ignorance, cowardice, and faction.'" It is hardly worth observing that the words distinguished by inverted commas in Mr. Rose's book, are not the precise words of Mr. Fox. The material objections are that Mr. Rose has misunderstood the passage, and has stated it to contain an original accusation preferred by Mr. Fox, and

Rose, Intro.  
p. iv.

Rose, p. 164.

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the complaints, that Mr. Fox had not made a "candid inquiry" concerning him, and should have shewn "some regard for such a character, &c." tend only to shew how strongly this erroneous impression had fixed itself in Mr. Rose's mind.

But often repeated

Seven times, in only four pages of Mr. Rose's introduction; Mr. Fox is said to have "adopted" the censure; in another place the "censure contained in the third Chapter of Mr. Fox's work" is mentioned; and again, he is said to "apply" the censure of Argyle; while in a more gentle mode of expression, in another passage we have, "Mr. Fox seems to sanction the reflections thrown upon his conduct by the Earl." In the fifth Section now under consideration we find the charges "to which Mr. Fox has given currency," "the heavy charges adopted in a work," &c. "the cruel imputation to which currency is thus given," and the "heavy accusation already alluded to, adopted in a work, the name of the author of which ensured its being universally read, from whom it may be safely said, it should not have received countenance, without the most plain and positive authority." And when, at the conclusion of the Section, Mr. Rose is about to take leave of the Historical Work, he refers to his original motive for taking any notice of it, and observes that Mr. Fox had rather inconsistently pronounced Sir Patrick Hume, "in his own opinion, an honourable man, having previously quoted the Earl of Argyle's words, with acquiescence, if not

Rose, p. 165.

Id. p. 211.

“ approbation, to shew him unfaithful to his friend, and  
 “ a betrayer of his cause.” This last and a former quotation evidently point out the mistake, into which Mr. Rose has fallen, and shew that he has confounded what Mr. Fox has stated Argyle to have written concerning certain persons described as.....friends, with what he wrote concerning two persons whose names are left also in blank. Mr. Rose has not disputed the propriety of the conjectures, which the Editor has mentioned to have been made by Mr. Fox and himself, as to the names with which these blanks are to be filled up, and, if they are well founded, these latter complaints made by Mr. Rose of injury done to the memory of Sir Patrick, fall to the ground. For Argyle did not charge him and Cochrane, but *Cochrane's friends* with being his greatest enemies to betray and destroy him, they are the persons described to be unfaithful to their friend, and betrayers of his cause. Thus so far from such a charge against Sir Patrick Hume having been adopted, sanctioned, or acquiesced in by Mr. Fox, he has never either made it himself, or repeated it as made by any body else. That Cochrane, and Hume were the greatest cause of the rout, and of Argyle being taken, though not designedly, cannot be denied, for it is fully proved by Sir Patrick Hume's narrative; he, and Cochrane embarked in the expedition, upon principles so directly opposite to those of their leader, and were pledged to Monmouth to act upon a plan of operations so immediately contradictory to his, that it was impossible almost it could be success-

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Curious mistake of Mr. Rose.

Cochrane and Hume principal causes of Argyle's ruin.



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Hume's Narrat.  
p. 51.

ful. Unable to account for their perverse and teasing conduct from any praiseworthy or honest motive, Argyle makes the best excuse, which occurs to his mind even in that season of extreme irritation and wounded sensibility, he acquits them of having occasioned his misfortunes designedly, but attributes their conduct to ignorance, cowardice, and faction. Of the first he might have no doubt from the obstinacy, with which they obstructed his plans in a country where *they* were strangers, and *he* was at home, and among his vassals; the second he might infer from their general opposition to the bold, and perhaps desperate plans he had proposed in order to extricate himself and them from their difficulties, and from their final desertion of him; and of the last, he and every one who has perused the narrative must have had the fullest conviction. As an instance, when their little fleet was lying at Rothsay, and the Earl and his followers were disputing whether they should attack Athol in the highlands, or march to the lowlands, Sir Patrick Hume says, "wee wer masters of the seamen, who wer ready "to obey us, whatever the Erle should contradict," but he prevailed upon them to yield to the wishes of Argyle, for which one of his reasons is expressed in these words "I did really believe that he would oppose us by force, "for he had commanded companies of Highlanders aboard "all the ships." When we learn that the system of disunion and faction was so far advanced, even before they had seriously commenced operations, we cannot be surprized that the expedition should end disastrously.

But did Argyle himself make the charge, which is supposed to affect so materially the character of Sir Patrick Hume? the only rational explanation of the very extraordinary conduct of the latter must attribute to him one or more of the motives, which occurred to the mind of Argyle, and he committed to paper; but was this done with intention to rest the vindication of his own conduct, upon the substantiating or circulating of these charges? Far from it! his benevolent heart recoiled at them, and he desired they might be struck out of any account, which should hereafter be given of these transactions. Mr. Fox, ending his extract from the MS. here, it may be inferred that he considered these charges, as having slipped inadvertently from the pen of Argyle, and afterwards obliterated, for, in compliance with his request, that ought to have been the case in any account, which might be published from the MS. But Mr. Fox did not chuse to omit the circumstances altogether, not because it conveyed an imputation upon Sir Patrick Hume, but because it placed Argyle's character in an amiable point of view. If he had not considered it in this light, he would not have omitted to notice the apology made by Argyle for using those epithets in these words, "only I must acknowledge they were not governable, and the humour *you found begun*, continued." Argyle having drawn the conclusion from the ungovernable conduct of Sir Patrick Hume and another person, who had placed themselves under his command, that

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Delicacy towards Sir P. Hume.

Fox, p. 198, note.

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they had not designedly, but through ignorance, cowardice, and faction, ruined the cause in which they had embarked, is not pleased with these harsh epithets, and desires they may be struck out, but in justification of himself states the grounds upon which he had made use of them. From their conduct he made the inference, he had been harassed, perplexed, irritated, and overruled in every measure he had proposed, from their embarkation in Holland, to their final separation, and in such circumstances he was anxious to adopt the most natural and charitable reasons, which could be suggested to account for their conduct. He did not deliberately make these charges against the companions of his fortunes, on the contrary, he expressly desired they might not be published, and contented himself with saying in substance, that they were *so ungovernable and perverse from first to last*, that through them the expedition was ruined, and its leader lost his life.

Mr. Fox does  
not reflect on  
Sir P. Hume.

But whatever might be the wrongs Sir Patrick Hume had suffered from the pen of Argyle, he had sustained none from that of Mr. Fox, who in his general estimation of Sir Patrick Hume's character, as Mr. Rose exultingly says, "does not venture to contradict the common opinion of the time," wishing to insinuate, that Mr. Fox would have rejoiced in the opportunity of diminishing the respect due to his character, if he had dared. Here the spirit of candour and impartiality, with which Mr. Rose pro-

Rose, p. vi.



fessed to set out, must have been, unknown to himself, warped by the irresistible bias of his mind to find fault with Mr. Fox. Such had been the constant habit of his political life, and his best intentions and resolutions could not withstand its influence when he became a commentator. Let the following passage in Mr. Fox's book be attended to, and then let it be said, whether it is probable that he could have any inclination to detract from Sir Patrick's reputation. After having stated that a suspicion had arisen, that Sir John Cochrane had been treacherous to Argyle throughout, he mentions, as a circumstance tending to disprove the charge, " that it must  
 " be remembered that in Sir John's disputes with his Ge-  
 " neral, he is almost always acting in conjunction with  
 " Sir Patrick Hume, who is proved by the subsequent  
 " events, *and indeed by the whole tenor of his life and conduct,*  
 " *to have been uniformly sincere and zealous in the cause of*  
 " *his Country.*"

Fox, p. 213.

It may be the duty of a historian to mention what one man has said of another, even though he is not satisfied that it has been truly said. If therefore Argyle had written this of Sir Patrick Hume, might not Mr. Fox be justified in relating that he had done so? but Argyle instead of writing it of Hume, writes of a person for whose name he leaves a *blank*. And when the historian finds a censure passed upon that person by an eminent character, may he not hazard a conjecture as to the

But only nar-  
rates the acts  
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name by which that blank might be properly filled, without meaning to give any opinion of the merits of the person to whom it was meant to be applied. But Mr. Fox in his character of historian does not do so much, for he privately states in a letter to a friend, not his opinion of who deserved that censure, but who it was that Argyle meant to censure. Mr. Rose first supposes the relation of Argyle's opinion to be the expression of the opinion of the relator, he then supposes the conjecture of the relator, as to the names which should fill up the blank places to be the same as actually filling them up, and he supposes lastly, that the quotation from a private letter made by the Editor is the same as if included in a work intended for publication by the author. The result is, that Mr. Fox is gravely accused of, "giving currency to charges against "Sir Patrick Hume," by the posthumous publication of a conjecture contained in one of his private letters.

It was the duty of Mr. Fox to describe the conduct and feelings of Argyle in his last moments, but in doing this he has abstained most cautiously from intermixing any sentiments of his own. But Mr. Rose cannot be aware of the extent, to which his argument would conduct him; if Mr. Fox is supposed to adopt and countenance the paper of Argyle, in praise of which he has not written a syllable, surely Mr. Rose must have adopted and countenanced the narrative of Sir Patrick Hume, in applauding which he has been most lavish. But that

is not all, as he severely censures Mr. Fox for not having made the necessary inquiries concerning the authenticity and truth of Argyle's paper, we may presume that he has not been deficient respecting Sir Patrick Hume's. We conclude therefore, that upon full examination of all the proofs, and due consideration of all the arguments he is convinced, as Sir Patrick declared himself to be, that a hellish popish plot had been evidently and distinctly opened to the Parliament of England, and that it was the duty of Scottes natives and christians, to endeavour the rescue of their "religion, rights, and liberties, and the "many distressed sufferers on their behalf, against the "Duke of York, and others usurping upon, ruining, and "invading of the same, under pretext of justice, law, "and right." Yet this inference so necessarily the consequence of the arguments of Mr. Rose, would not be correct, for we cannot suppose that he is ready to declare his belief in the truth of the popish plot, and he speaks of Argyle's guilt, incurred by his being engaged in the same cause with Sir Patrick Hume.

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VI.Hume's Nat.  
p. 5, 7.

Rose p. 187.

The sum and substance of the offence committed by Mr. Fox is, that he has correctly stated the sentiments of Argyle without comment, but we will now suppose, for the sake of the argument only, that this complaint is well founded and silence culpable, provided it can be shewn that Mr. Fox had not taken all the necessary steps to inform himself fully upon the subject. The first charge is, that "he did not find even the MS. to

Mr. Fox  
anxious to be  
fully informed.



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"which he refers," but we are told by the Editor of the Historical Work that he did all that lay in his power to discover it, and if the search was ineffectual, is it to be seriously imputed to him as a crime? The second charge is that, for want of the MS., this "cruel imputation" rests only on the credit of Woodrow, an author high in *his* esteem, but altogether unsupported. Perhaps there are few authors, who may be more safely trusted than Woodrow, he stood high, not only in Mr. Fox's esteem, but his works have always been held in great respect, and, from his having free access to records and public papers, no man had better opportunities of being correctly acquainted with the facts he has related. That the conduct of Sir Patrick Hume was of a nature to justify, or at least account for the suspicion of Argyle the narrative itself leaves no cause to doubt.

The supposition of Mr. Fox feeling an inclination to blacken the memory of Sir Patrick Hume is, according to Mr. Rose's own uncharitable hypothesis concerning Mr. Fox's principles and object, in the highest degree improbable, for he wishes it to be understood that any man who thought ill of kings, or was a republican, or in arms against authority was sure to find favour in his sight, and that no man of opposite principles could meet with even justice, certainly not with indulgence, from his pen. In a subsequent page of his book which will be noticed presently, it is strongly insinuated that Mr. Fox declined to write a panegyric upon Montrose, because

his chivalry had been kindled by his attachment to his king, and chose to write one upon Argyle, because his zeal was inflamed by his indignation at the abuses of monarchical power. But we may ask, Was not the zeal of Sir Patrick Hume kindled by his indignation at the abuses of monarchical power? and what then becomes of these imputations so rashly and unjustly cast upon Mr. Fox? If he gave currency to any unfounded charges against Sir Patrick Hume, he must be acquitted, in that instance at least, of having been swayed by the bias, which is inconsistently alledged to have been uniformly operating upon his mind, and colouring all his statements. The severity with which Mr. Fox is supposed to have treated Sir Patrick Hume, demonstrates that a zeal against monarchical abuses was not alone sufficient in his mind to atone for other defects. The superior interest and regard, with which he contemplated the history of the Earl of Argyle, arose from circumstances connected with his character, which did not belong to Sir Patrick Hume's, although they had embarked in the same cause. We must not forget that the primary cause of Mr. Rose's publication was his acute sense of Mr. Fox's injustice to Sir Patrick Hume, but had Mr. Fox shewn half the anxiety about the character of Argyle, that Mr. Rose has done about that of Sir Patrick Hume, Mr. Rose might have more reasonably inferred a predilection to republican sentiments, but we are less uncharitable and willingly acquit Mr. Rose of any such propensity.

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Peevish ob-  
servations of  
Mr. Rose.

Rose, p. 166.

The third argument to support the complaint of Mr. Rose is introduced by some rather peevish observations, sufficiently betraying the influence, which unknown to himself, guided his pen. "If Mr. Fox had found leisure," it is said, "for the investigation to which we must believe he was disposed, we should not have had reason to lament the little advantage derived to the public from his eagerness to trace all information to its original source; of which it must be acknowledged, there are few symptoms in the whole work, except some additional letters to, and from Barillon in the year 1685, which throw no light on any one interesting transaction: and yet there are undoubtedly many valuable papers, well worthy of the curiosity of the public, which would have considerably elucidated the history of his short period, that have not been published, and have been seen probably by very few, except those in whose possession they are. To have acquired a title to superior correctness for his work, Mr. Fox should have used his best endeavours to have had access to these, and explored *every source of information, not yet given to the world*: or at least, to have carefully examined, and compared *every thing already printed*, respecting the subjects, on which he wrote."

Rose, p. 183.

If Mr. Rose had always remembered that "We tread with reverence on the ashes of the dead," he might have been inclined to treat the character of Mr. Fox and



his posthumous work with a little more respect. He might have spared the insinuation of a disbelief that he had a disposition for investigation, and the assertion that there are few symptoms in the whole work of his eagerness to trace information to its source, or that the additional letters to and from Barillon throw no new light on any one interesting transaction. He might have given Mr. Fox some credit for the pains he took and the researches he made to discover the original MS. of King James's diary, and whether Macpherson ever saw it or not; to find out the original copy of Argyle's last paper; and to examine and copy the French correspondence. He no doubt lamented with Mr. Rose that the public should derive so little advantage from his efforts, but he made them, and manifested that disposition and eagerness, which Mr. Rose is inclined to deny him the merit of. With respect to the importance of Barillon's correspondence, enough has been said already in the Fourth Section.

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These unfounded complaints form a sort of *proemium* to the charge against Mr. Fox of not having used his best endeavours to obtain access to many valuable papers, and serve as an introduction to a display of Mr. Rose's knowledge of the Repositories, in which they are to be found. Mr. Rose has a manner of making and arguing in favour of objections quite peculiar to himself, and it is seriously stated by way of aggravating the offence, that these same valuable papers " have been seen probably by very few,

Charge against  
Mr. Fox for  
not obtaining  
family papers.

Rose, p. 166.

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“except those in whose possession they are.” Now, if they were secreted from the world, how was Mr. Fox to get access to them, or even be apprized of their existence. But says Mr. Rose with apparent displeasure at the supposition of any author, besides himself, having a claim to superior correctness, to support the title to such a character, Mr. Fox should have used his best endeavours to have had access to these papers, with the existence of which he might for any thing we know be utterly unacquainted. Mr. Rose is still more unreasonable for he would have required him to have performed impossibilities, to have “explored *every source of information not given to the world,*” or “at least to have examined and “compared *every thing already printed,* respecting the “subjects on which he wrote.” The absurdity of the proposition is its best answer. But we have now obtained from Mr. Rose’s pen something like a definition of *superior correctness*, and it is a pity but he had favoured us also with the meaning of the expression *official accuracy*. Perhaps, the person accustomed to it, is one, who makes no researches or only very superficial ones himself, and is contented with drawing the result from materials furnished by the industry of others. It will then be easy to understand why Mr. Rose is so often in a maze of error when left to his own researches, and why he has so little mercy on the supposed defects of others.

Mr. Rose then proceeds to remind the reader that he has already brought into notice documents left by the

Lord Treasurer (Clifford), and to mention that some were a few years ago in possession of the late Earl of Shaftsbury, yet to none of them is there any allusion "nor indeed, as "already observed, even to authorities accessible to "one;" what is meant by these last enigmatical words we are left to conjecture, perhaps they refer "to every "thing already printed," and yet that would not be correct, for many things, which are printed are not easy of access, or even to be found at all when wanted. No papers of the Argyle and Cochrane families, it is remarked, are alluded to by Mr. Fox, and then comes this curious paragraph. "It is certain no inquiry was made respecting "the Marchmont papers. If there had, no political "differences of opinion would have prevented the author "of these sheets, from putting into Mr. Fox's hands, "copies of such as would have been likely to be useful in "an Historical Work; least of all such as would have had "a tendency to shew the character of the man ennobled, "and raised to great dignities by the deliverer of this "Country, in the amiable and respectable light to which "he is well intitled."

Mr. Fox it seems has offended because he has made no allusion to any papers of the Argyle and Cochrane families, which Mr. Rose does not assert to be in existence; nor to any of the Clifford or Shaftsbury families, which Mr. Rose knows were existing a few years ago. What inquiries were made after any of these papers we are not told,



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and because these inquiries have not been mentioned it is presumed that access to them was never sought. But does Mr. Rose know that Mr. Fox was acquainted with there being any papers of consequence preserved in these respectable families, or that he did not apply for them? He may have been as anxious and eager to possess himself of these treasures if they existed when he wrote, as Mr. Rose has stated he ought to be in order to give to his work a title to superior correctness.

Mr. Rose  
never offered  
the March-  
mont papers.

But it seems, the Marchmont papers are in the hands of Mr. Rose, and therefore he is sure no inquiry was made after them, and if there had been, copies of them would have been at Mr. Fox's service. Did it never occur to Mr. Rose, who would so liberally have opened his stores, *if he had been applied to*, that possibly Mr. Fox might not know that the Marchmont papers had been placed in the hands of a stranger to that family? or that, from the political differences to which Mr. Rose alludes, and which have not lost their effect upon his mind at this day, he might fear that the application would be disagreeable, and probably not successful. Mr. Rose knew perfectly well, for every body in the higher circles of life knew, that Mr. Fox was writing the history of the reign of James the Second and the Revolution, and it would have been a becoming act of magnanimity in the former to have inquired how far any documents in his possession could be useful, and to have placed

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them unsolicited in the hands of the historian. If Mr. Rose had done this, Sir Patrick Hume's Narrative might have been interwoven into Mr. Fox's book, his character preserved from all supposed obloquy, and Mr. Rose's Observations spared. But Mr. Rose it seems stood upon a point of etiquette, and the first application was to come from the other side. But let it not go abroad that Mr. Fox was not desirous to accumulate intelligence wherever it was to be acquired, or that his friends were not assiduous in their endeavours to assist him. But there are obstacles to be surmounted in such pursuits, and none perhaps so difficult to be overcome, as that indolence which is natural to man. The possessor of a valuable paper may be most ready to grant the use of it, and yet feel an unconquerable reluctance to take the trouble to search for it, especially if that trouble cannot conveniently be delegated to others, or is to be attended with that of copying it himself afterwards. The Author of this Work knows, personally, that Mr. Fox did complain, that for some cause or other it was more difficult to get at family papers than he had expected, and perhaps on that account latterly, he was not so anxious as at first to procure them. But the Author is happy to say, that there may be mentioned one person at least of the highest rank, whose warm attachment to the principal political opponent of Mr. Fox cannot be disputed, yet did not permit the generous feelings of his own heart, to be restrained by the punctilious *etiquette* which operated so strongly upon Mr.

Mr. Fox was anxious to procure family papers.

Liberal conduct of the Earl of Lonsdale.

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Rose's. The present Earl of Lonsdale did not wait to be solicited, but voluntarily requested a friend of Mr. Fox to inspect the manuscript papers then in his possession, which had belonged to the first Earl of Lonsdale, whose memory must be dear to Englishmen, for the active part he took in establishing the liberties of his country at the revolution. This request was followed with another, that their contents might be reported to Mr. Fox, with the offer that all or any of them, which he might think were likely to be useful in the prosecution of his Work, should be sent to him whenever he pleased. The friend of Mr. Fox, here alluded to, had been previously commissioned to apply to the Noble Earl for a communication of these papers, but the wishes of the historian being thus liberally anticipated, no application of course was ever made. This instance shews that Mr. Fox was not inattentive to the acquisition of information, and that the cold ceremonious system of Mr. Rose has not been universally acted upon. Of the usefulness of these papers Mr. Fox justly entertained the highest opinion, and that he did not send for them was owing, as he himself declared, principally to his conceiving that they would be of more use after he had advanced further in his work, and also to his not chusing to have such valuable documents in his possession, without having an immediate prospect of employing and returning them. The Noble Earl after Mr. Fox's death printed and distributed, as already mentioned, the memoir of James



the Second, which was one of the papers intended to be communicated to Mr. Fox, and which contains so much new and interesting information, that under the circumstances which have occurred, it is much to be regretted any delicacy should have prevented him from having obtained the most early possession of it.

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Mr. Rose in admitting that the different parties, who met in Holland, had probably "a mixed consideration for the public, and themselves," accounts in some degree for the extraordinary conduct of Sir Patrick Hume through the whole business. The selfish views of the parties concerned explain why the expedition was so rashly undertaken, as Mr. Rose states it to have been, and how it came to be so unfortunately conducted afterwards. But after Mr. Rose has made this observation, it is not very consistent to say that, "he must therefore be a severe judge of the actions of men, who would impute to him," i. e. Sir Patrick Hume "an unworthy motive for embarking in the undertaking." Mr. Rose would save a world of trouble, if he would speak out plainly, for to what he alludes here it is impossible to form any conjecture. Argyle imputed to Sir Patrick ignorance, cowardice, and faction after he had embarked, and Mr. Fox has from himself made no accusation, except of deserting Argyle in his last extremity. Mr. Rose alone has hinted at an unworthy motive for his embarking, and told us that, probably, he acted from a mixed consideration for the public and *himself*.

Mr. Rose im-  
putes selfish  
motives to Sir  
P. Hume.  
Rose, p. 167.

Ibid. p. 169.

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Mr. Rose visits  
the sin of the  
Editor upon  
the Author.

The Exclamation of Argyle.  
Fox, p. 171.

Mr. Rose upon several occasions has, unconsciously, identified the historian and his editor, and remarked upon the observations of the latter, as if made by the former; but we have now an instance of his selecting a passage for animadversion, which would have been protected by its insignificance, if the account of Argyle's expedition had not been pointed out by the editor as a proof of the industry of Mr. Fox in investigating facts. This is rather hard upon an author, who unfortunately left his work in an unfinished state; his memory has been repeatedly charged with sins committed, if committed at all, by a living offender, but now he is to be chastised for a trifling offence, which would have been passed over unnoticed, if an affectionate relative had not ascribed to him a merit, to which he is most justly entitled. For whatever may become of the observation alluded to, Mr. Fox's character for general industry will remain unimpeached. It seems that he discredits the story of the Earl exclaiming, when taken, "unfortunate Argyle," and then discovering himself, saying, "besides that there is no authority for it, it has not the air of a real fact, but rather resembles a clumsy contrivance in some play." Mr. Rose, to prove there was authority for it, quotes a paper printed at the time at Edinburgh, which we may put out of the question, because he admits it might not be known to Mr. Fox, but he then tells us that in the Gazette it is found. That it might have occurred to Mr. Fox to look into the Gazettes of the time is very possible, but

whether he had the power of obtaining access to them, or whether he procured them, and was not satisfied, or whether he had intended to have examined them, or never thought at all about them, it is impossible for any man alive to say. The most uncharitable conjecture is that, which Mr. Rose has adopted, that he was not sufficiently industrious in investigating facts, and therefore never inquired after the Gazettes. Mr. Rose it seems relies upon one of them, and Mr. Fox might have thought that alone was not in those days an authority to be trusted, when the manly temper and firmness of Argyle is taken into consideration, and it is recollected that whether the exclamation was made or not could be known only to himself, and the militia men who took him, and that in his own account he makes no mention of it. Mr. Rose states that Mr. Fox gives some weight to the Earl's silence, but it is not, he observes, extraordinary that he should not think it worth while to mention such an exclamation. So far from agreeing with Mr. Rose, the reader may think that, as by means of that exclamation he was discovered, it made one of the most important features of the transaction, and, if it had been uttered, would in all probability have found a place in his narrative drawn up subsequently, which Mr. Fox has cited and principally followed in the Historical Work.

Turning now from the venial offence of Mr. Fox



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Mr. Fox compares the spirit of Montrose and Argyle only from their verses when under sentence of death.

Rose, p. 173.

in stating that there was no authority for a fact supposed to have happened in Scotland, notwithstanding it was narrated in a London Gazette, we have next to notice an instance of inaccuracy in Mr. Rose, which might surprize the reader, if he had not had so many instances of a similar kind presented to him before. Mr. Fox is stated to say, that the courage of the Marquis of Montrose "was more turbulent; that of Argyle more calm and sedate." And then Mr. Rose observes, "This is the only mention of that distinguished nobleman in the work before us, *although he lived in the period of Mr. Fox's introductory Chapter.*" By these last words an insinuation is intended to be conveyed that Mr. Fox had wilfully, and therefore culpably avoided to mention Montrose; but, without intending it, Mr. Rose in them offers a satisfactory reason for the omission, even though the observation had been well founded; for Mr. Fox professes to enter into no minute discussion of facts within the period, to which that chapter is confined, and for that reason had only incidentally mentioned the death of the Marquis of Argyle, the rival and prosecutor of Montrose. But Mr. Rose has altogether mistaken the passage, for Mr. Fox, mentioning some verses made by Argyle for his own epitaph the evening before his execution, is naturally led to compare these with the verses made by Montrose under similar circumstances. He says the poetical merit of the respective pieces is nearly equal, and in neither considerable, and adds "they are only in so far valuable, as

“ they may serve to convey to us *some image of the*  
 “ *minds, by which they were produced.* He, who reads  
 “ them with this view will perhaps be of opinion, that the  
 “ spirit manifested *in the two compositions* is rather equal in  
 “ degree, than like in character; that the courage of  
 “ Montrose was more turbulent, that of Argyle more  
 “ calm and sedate.” He is not comparing the general  
 characters of these noble personages, or declaring a pre-  
 ference of the one to the other, he does not even com-  
 pare their courage, but confines himself to the spirit, with  
 which they bore their calamities, and by which their  
 conduct was directed, when under sentence of death.  
 Nor does he found the character he gives of that spirit  
 from his own observation or information, but simply infers  
 it from their respective poetical effusions, in situations  
 extremely similar. Mr. Fox thinks that from these verses  
 may be discovered that the courage, with which Montrose  
 met the approach of death, was turbulent, that of Argyle  
 more calm and sedate. The nature of their military  
 talents and achievements could not be drawn from their  
 verses, and therefore was not in Mr. Fox’s contemplation  
 when he made this comparison.

It might not be necessary to notice the ensuing obser-  
 vations upon the conduct and character of Montrose, if  
 his sufferings and character had not been compared with  
 those of Argyle. Mr. Rose is not content with making  
 Montrose into a hero, he is nothing, unless he is greater

Unjust charge  
 against Mr.  
 Fox for not  
 praising Mon-  
 trose.

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Rose, p. 183.

than Argyle, and to prove this not only the former must be exalted, but the latter depreciated. "We tread," says he, "with reverence on the ashes of the dead; it might otherwise not be difficult to shew that Argyle was not altogether that hero, which Mr. Fox's partiality has made him." It is then admitted that he was possessed of an amiable disposition, gentleness, and equanimity; but it is objected that his talents were not fitted to conduct the enterprize he undertook, his bravery not always guided by discretion, his decision did not yield sufficiently to the opinion of others, and the smallness of the party which joined him in Scotland, "marks of itself the distrust of his ability to conduct them; and from his landing in Orkney to his final discomfiture, his measures seem to have been adopted without any plan, to ensure their success, or to extricate himself and his followers, if misfortune should attend them. The heroism of his death may, however, excuse Mr. Fox for the warmth of his panegyric; yet in the short comparison, which he has introduced between Argyle and Montrose, he has resisted the same feeling towards the latter nobleman, whose death was not less heroic, and whose achievements were much more brilliant than those of the former. If the chivalry of Montrose had not been kindled by his attachment to his King, as the zeal of Argyle was inflamed by his indignation at the abuses of monarchical power, it must have given Mr. Fox an opportunity for such eulogium as historians, even

Rose, p. 184



“adverse to the royal cause, have allowed to that galling royalist.”

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The imputation conveyed in this passage is that, though the achievements of Montrose were much more brilliant than Argyle's, yet Mr. Fox has withheld the eulogium due to him, because his chivalry had been kindled by his attachment to his King, while he panegyrized Argyle, because his zeal was inflamed by his indignation at the abuses of monarchical power. In defence of Mr. Fox it might be urged, as has been done before, that if he had thought as highly of the character of Montrose, and as meanly of that of Argyle, as Mr. Rose does, the plan of his history did not admit of his entering into a discussion of the merits of Montrose and sketching out his character, for he was dead before the period at which the History begins. Is it not possible that blinded not merely with that childish love of Kings which has been imputed to Mr. Hume, but with a similar affection to every body who felt attachment to them, Mr. Rose may have estimated too highly the character of Montrose? It has been proved, that his judgment was misled by this partiality in the case of Monk. It would not follow because Montrose's death was as heroic as Argyle's, and his achievements more brilliant, that he would have had equal claim with Argyle to the praise of Mr. Fox. The character of Argyle depended upon many other circumstances, to which Mr. Rose makes no allusion. Mr. Rose knew well that all the Historians, friendly to the royal

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Rose, p. 174.

cause, did not think that he was entitled to unqualified praise, for he mentions himself that the character given of him by Clarendon is "certainly more admirable, than amiable."

Characters of  
Montrose and  
Argyle.

Laing, iii.  
p. 248.

From Mr. Laing's History, we learn that Montrose began life without any settled principle; he took the covenant himself, and in 1639, was employed with Lesly in forcing it upon others, and was distinguished by his extreme severity in performing the service: but two years afterwards, jealous of the superiority of Argyle in the senate, and Lesly in the field, he was suspected to have set up, or at least encouraged, a false accusation of Argyle, and thrown into prison, where "disgusted alternately at "the court, and the covenant, his spirit, indignant at the "disgrace of imprisonment, was fixed irrecoverably in "its last resentment." The character of Montrose was not such as to be likely to induce Mr. Fox, to go out of his way to write his panegyric. For however enterprising and intrepid his spirit, however brilliant his exploits, they were tarnished by his general violence and severity, by his having first betrayed his party, and then persecuted it with unrelenting and merciless cruelty, and by his not only having recommended assassination, as an expedient to secure his Sovereign upon the throne, but offered himself to use the poniard\*. From the con-

\* He advised the assassination of Hamilton and Argyle in 1641, and undertook to execute it himself. Laing iii. p. 208. and in 1643, when his desperate counsels prevailed, a massacre of the chief covenanters was projected. Ibid. p. 235.

temptation of such a character, Mr. Fox must have turned away with disgust, while the mild and benevolent spirit of Argyle, so congenial with his own, seems to have excited in him a high degree of affection as well as admiration, and roused the tenderest sympathy. He could not describe unmoved his undeserved sufferings, and it would have been unjust to withhold the language of panegyric, when recording the most interesting occurrence of the life of a man, of whom he thought so highly as to say, "Let him be weighed never so scrupulously, and in the nicest scales, he will not be found, in a single instance wanting in the charity of a christian; the firmness, and benevolence of a patriot; the integrity, and fidelity of a man of honour."

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Fox, p. 204.

Mr. Rose does not correctly state Mr. Fox's argument, when he says, that from the words, "*that you take all ways* to know from him those things which concern our government most," in the warrant for the Earl of Argyle's execution, Mr. Fox is induced to believe it was intended to apply torture, for Mr. Fox was induced to such belief, not merely from the insertion of those words, but also from torture being at that time in common use in Scotland, and the persons to whom the warrant was addressed having often caused it to be inflicted, and therefore the meaning of those words well known to them. Mr. Rose observes that torture had been in common use in Scotland, was inflicted in the reign of William

It was intended to torture Argyle.



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Rose, p. 182.

Fox, App.  
p. cxiv.

the Third, and not prohibited by law till after the Union. But he is not content to confine his history of torture to Scotland, but makes an excursion into England, and at last comes to a conclusion, which is warranted by nothing that goes before, and therefore possibly some quotations respecting the proceedings against Argyle, or some passages meant to be inserted in the observations may have been accidentally omitted. "On the whole," he says, "upon the most attentive consideration of *every thing that has been written on the subject*, there does not appear to have been any intention of applying torture in the case of the Earl of Argyle." When Mr. Rose gave the subject the most attentive consideration, or what were the documents he considered, or how he got access to *every one* of them we are not told; for these words certainly cannot refer to the quotations he has favoured us with, relating to the use of torture in general in this island. But Mr. Rose has omitted to notice a passage in one of Barillon's Letters, which it must be presumed is included in his description of "every thing that has been written on the subject," which proves to demonstration that there did exist an intention to apply the torture to Argyle, and goes further, for it furnishes the reason why it was not inflicted. The Letter is dated the 16th of July, 1685, and has this passage, "The Earl of Argyle has been executed at Edinburg, and has left a full confession in writing, in which he discovers all those, who have assisted him with money, and who have aided his

designs; *that has saved him from the torture.*"\* Argyle himself does not deny that he made discoveries, but in his letter to Mrs. Smith writes that he had mentioned no names, except hers and a few others, which it was impossible to conceal.

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Passing over Mr. Rose's Observations upon the use of torture in Scotland, it may be remarked that he does not seem to be perfectly acquainted with the history of torture in the southern part of this island. To the *Law of England* he is certainly justified in saying, from the highest authority, that it is utterly unknown, but he is not accurate in stating the case of Felton, who murdered the Duke of Buckingham, to be the only instance of an attempt to exercise it here, except when there was a design to introduce the civil law in the reign of Henry the Sixth, and except also the actual application of the rack in some cases of treason in Queen Mary's time, mentioned in a note preceding his Appendix. If Mr. Rose had referred to Mr. Justice Blackstone's Commentaries, as we find him doing upon other occasions, he would have learnt that the use of the rack was not confined to the few instances mentioned by him. In the reign of Henry the Sixth, the rack or brake had been placed

Torture in  
common use  
in England to  
extort con-  
fession.

Rose, p. 181.

Bl. Com.  
iv. p. 326.

\* Le Comte D'Argile a été exécuté à Edinbourg, et a laissé une ample confession par écrit, dans laquelle il découvre tous ceux qui l'ont secouru d'argent, et qui ont aidé ses desseins; cela lui a sauvé la question.

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by the Earl of Exeter in the tower, when he and the Earl of Suffolk had formed the design of introducing the civil law into England. It was called Exeter's daughter, and remained afterwards in the tower, "where it was occasionally used as an *engine of state*, more than once in the "*reign of Elizabeth*." It may be suspected, from Mr. Rose having borrowed in part the expression of Blackstone, that he was aware of the before mentioned passage, but misunderstood it. Though the use of the rack does not appear to have been known in this country until the 26th year of the reign of Henry the Sixth, and though it was never authorized by the law, yet to borrow the expression of Mr. Justice Blackstone, as "an Engine of State," it was occasionally used to extort confession from state prisoners confined in the tower, from the time of its introduction, until finally laid aside in consequence of the decision of the Judges in Felton's case. One Hawkins was tortured in the reign of Henry the Sixth, And it is surprizing that the interesting case of Anne Askew in the reign of Henry the Eighth, could have escaped the memory of Mr. Rose; the Lord Chancellor Wrottesley, went to the tower to take her examination, and, upon the Lieutenant refusing to draw the cords tighter, drew them himself till her body was nearly torn asunder\*. In Mary's reign, Mr. Rose has observed that

Fuller's Worthies, p. 317.

Burnet's Reformation. i. p. 325.  
ii. p. 382.

\* There is a small book printed in black letter, containing an account of the treatment and trial of Anne Askew, which contains many curious particulars.



several persons were racked in order to extort confessions, which was upon occasion of Sir Thomas Wyatt's rebellion. And Barrington mentions that in Oldmixon's History of England, (p. 284.) one Simpson is said to have been tortured in 1558, and a confession extorted.

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Camd. Britt.  
Introd.

In the beginning of the reign of Elizabeth, the rack was used upon state offenders, among others, Francis Throgmorton; in 1571, upon Charles Baillie an attendant upon the Bishop of Ross, Mary's Ambassador, and upon Banastre, one of the Duke of Norfolk's servants, and Barker another of his servants was brought to confess by extreme fear of it. In 1581, Campion the Jesuit was put upon the rack, and in 1585, Thomas Morgan writes to the Queen of Scots, that he has heard D. Atslow was racked in the Tower twice about the Earl of Arundel. This is the last instance, which I have found, of the actual application of torture, to extort confession.

Coll. Ecc. Hist.  
ii. p. 591.  
Murden's Stat.  
Pap. p. 9, 101.

Coll. Ecc. Hist.  
ii. p. 139.  
Murden's Stat.  
Pap. p. 452.

For the greatest part of this reign, the application of torture in the examination of state offenders seems to have been in common use, and its legality not disputed. Mr. Daines Barrington says, that among the MS. papers of Lord Ellesmere, is a MS. copy of Instructions to him, as the Lord President of the Marches, to use it on the taking of some examinations at Ludlow; and Sir Edward Coke himself, in the year 1600, (the 43d of Elizabeth's reign) then being Attorney General, at

Obs. on ancient  
Statutes, p. 496,  
note.

St. Tr. i. 199.

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the trial of the Earls of Essex and Southampton, boasted of the clemency of the Queen, because though the rebellious attempts were so exceeding heinous, yet out of her princely mercy "no person was racked, tortured, " or pressed to speak any thing further than of their " own accord." And in the Countess of Shrewsbury's case (10 Jac. 1.) when Chief Justice, in enumerating the privileges of the nobility, he mentions as one, that their bodies were not subject to torture *in causa criminis læsæ majestatis*. Barrington justly observes there was a regular establishment for torture, for, at his trial, in the first year of James the First, Sir Walter Raleigh stated that Kemish had been threatened with the rack, and the keeper of the instrument sent for. Sir William Wade, who with the Solicitor General had taken his examination, denied it, but admitted they had told him he deserved it, and Lord Howard declared "Kemish was never on " the rack, *the King gave charge that no rigour should " be used.*"

12 Rep. p. 96.

Obs. on Stat.  
p. 495.Stat. Tr. i.  
p. 221.Obs. on Stat.  
p. 92.

Barrington mentions that Sir John Hayward, the historian, was threatened with the rack, which Dr. Grainger confirms; and the former also remarks that it is stated in King James's Works, that the rack was shewn to Guy Faukes when under examination.

Down to this period we do not find the legality of the practice had been questioned, though it has been

said by high authority, as will be stated presently, that some doubts had been suggested to Queen Elizabeth. State prisoners were confined usually in the Tower, and commissioners attended by the law officers of the Crown were sent to examine them, who applied the rack at their own discretion, or according to the orders of the Privy Council or the King, without any objection being made to their authority.

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In the third year of the reign of King Charles the First, Felton was threatened with the rack by the Earl of Dorset in the Tower, and Laud repeated the threats in council, but the King insisted upon the Judges being consulted as to the legality of the application, and they being unanimously of opinion that it was illegal, it was never attempted afterwards. The answer, which Felton made to Laud's (then Bishop of London) threats, is well worthy of attention; when Laud told him "if he would not confess he must go to the rack," he replied, "if it must be so, he could not tell whom he might nominate in the extremity of torture, and, if what he should say then was to go for truth, he could not tell whether his Lordship (meaning the Bishop of London) or which of their Lordships he might name, for torture might draw unexpected things from him."

In the year 1680, (32 Car. 2.) Elizabeth Cellier was tried at the Old Bailey before Mr. Baron Weston for the

St. Tr. iii.  
p. 99.



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publication of a libel, in which many circumstances were related for the purpose of inducing a belief that Prance, when a prisoner in Newgate, had been tortured there; and he was produced to prove the falshood of the publication. The learned Judge in summing up the evidence to the Jury said, "But you must first know the laws of the land do not admit a torture, and since Queen Elizabeth's time there hath been nothing of that kind ever done. The truth is, indeed, in the twentieth year of her reign, Campion was just stretched upon the rack, but yet not so but he could walk; but when she was told it was against the law of the land to have any of her subjects racked, (though that was an extraordinary case, a world of seminaries being sent over to contrive her death, and she lived in continual danger) yet it was never done after to any one, neither in her reign, who reigned twenty-five years, nor in King James's reign, who reigned twenty-two years after, nor in King Charles the First's reign; who reigned twenty-four years after; and God in Heaven knows there hath been no such thing offered in this King's reign; for I think we may say we have lived under as lawful and merciful a government as any people whatsoever, and have had little bloodshed; and sanguinary executions as in any nation under heaven." The learned judge may have been mistaken when stating Campion to be the last person racked, for in Murden's state papers, as before observed, one Atslowe is mentioned to have been tortured

four years afterwards. Mr. Baron Weston states that, upon a suggestion made to Queen Elizabeth of the illegality of the practice, it was discontinued in her reign, and thus we may account for Campion being racked with so little severity, as to be able to walk afterwards and to manage the conferences with protestant doctors during his confinement in prison.

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Two incidents connected with the last hours of Argyle, and mentioned by Mr. Fox, are doubted and observed upon by Mr. Rose, viz. that Argyle cautioned Mr. Charteris "not to try to convince him of the unlawfulness of the attempt, concerning which his opinion was settled and his mind made up," and that one of the Members of the Council, on finding the Earl in a sweet sleep a few hours before his execution, went away in great agitation. But it is sufficient for the justification of Mr. Fox for having noticed them, that the first is mentioned by Bishop Burnet, who possessed the means of obtaining good information upon the subject, and for the latter he has the authority of Woodrow, who Mr. Rose had before described to be "remarkably industrious in searching records and collecting anecdotes, especially such as affected leaders in the Presbyterian party, and who alledged he had the anecdote from an unquestionable authority. But in order to discredit Woodrow, it is said he "was a respectable man but a zealous partizan, and "we find from daily experience that when an author is

Two incidents  
in Argyle's  
last hours dis-  
puted.

Rose, p. 185.

Fox, p. 200.

Rose, p. 23.

Rose, p. 186.

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“ desirous of believing a fact himself, he will give credit “ to an authority, which on another occasion he would “ not rely on.” The observation is perfectly correct, and we deeply regret that Mr. Rose himself, in many instances, should have afforded practical proofs of its truth. But he has produced no evidence of such weakness ever belonging to the character of Woodrow.

Mr. Fox in his interesting relation, and eloquent comment upon the conduct of this member of the council candidly admits that the evidence is liable to that degree of doubt, which necessarily attends all traditional history, but he adds that the event is not improbable, and that the moral it inculcates, and the reflections it suggests would lead one to a wish that it was true. Mr. Rose questions the truth of the anecdote, and denies, or rather doubts its probability. Upon this occasion then, Mr. Rose is at issue on a point of reasoning with Mr. Fox, he differs with him upon the probability of an event to be drawn from a knowledge of the human character. On such a question Mr. Rose has informed the reader that Mr. Fox is an authority more to be relied upon than himself, yet in this instance he has departed from that resolution, which, on some other occasions also, he has unfortunately broken, of not contending with Mr. Fox in argument.

That morbid insensibility is not to be envied, which can lead to the questioning the possibility of a person who has



been instrumental in either procuring, pronouncing, or executing an unjust sentence of death, feeling the deepest remorse, and being agitated with the strongest emotions of shame, and horror at a scene, which should at once remind him of the consequences of his base compliance with tyranny, and the undeserved sufferings, and calm serenity of the victim. Mr. Rose may think it impossible for a man to reach the summit of power, or to become the instrument of it, unless he has grown too callous to feel remorse, too insensible to shudder at the sight of injured, oppressed, and expiring innocence. But Mr. Fox, who was less familiar with the change which the habits of office, the subserviency to power, and the exercise of authority may produce, and who could therefore only judge of the feelings and motives of men from common observation, and from an examination of his own warm and benevolent heart, drew a very opposite conclusion, and inferred from his view of human nature, that even the instruments of oppression themselves might retain such a sense of moral right, as to shudder at the consequences of their iniquity, when accidentally brought full in view before their eyes.

But Mr. Rose does not argue that the sight of Argyle, in the situation described, might not excite some feelings of compunction and remorse. He contends only that the acquiescence of this member of the council in the unjust command of the King, probably could not have

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Rose, p. 187.

been attended with so much agitation as Woodrow and Mr. Fox have described, because "the execution of a man notoriously guilty of high treason would not be likely to have excited *exactly the same sensation*, as the murder of an innocent man." But if this member of the council thought, with Mr. Rose, that the sentence was an unjust one, and if he had happened to be a man of more delicate nerves, and a more tender conscience than usually belonged to persons placed in his situation, he might have been agitated to the extent described, or at least somewhat more than might be expected in common cases. He might not feel himself justified in ordering the execution of a man, under an unjust sentence, or no sentence at all, merely because he was an eminent leader taken in open rebellion against his King.

Rose, p. 188.

Mr. Fox does not call soldiers employed against Argyle assassins.

This view of the subject, Mr. Rose says, He cannot put entirely out of consideration, however the motives of the actors in the enterprize may be approved of, "but which Mr. Fox's zeal seems to have made him disregard entirely, for in describing the situation of Argyle, when it was becoming desperate, he calls the regular soldiers and militia *pursuing the persons so in arms* against the King, *authorized assassins*."

Such are the words in Mr. Rose's book, but the fact is, that Mr. Fox, in describing the situation of Argyle when desperate, does not call the regular soldiers and

militia pursuing the persons so in arms against the King "authorized assassins." The term certainly occurs but not in that part of the work, or in that connection, nor is it, as we shall proceed to explain, applied to the soldiers and militia, so (i. e. with Argyle) in arms against the King. This gross and important mis-representation of Mr. Fox's words and meaning we shall charitably impute to that inattention and carelessness, which have been so frequently pointed out, and pity the ludicrous situation of the champion of prerogative fighting the phantoms of his own imagination, and using his keenest weapons of argument, insinuation, and sarcasm against an adversary, as unreal as the gigantic foe of the Princess Micomicona. But the Knight of la Mancha was asleep when he fought, and he engaged but once, but Mr. Rose is broad awake, and has returned again and again to the charge. If we were justified in assuming that the distortion of the words, the perversion of the sense, and the mis-quotation of the passage are wilful, no terms would be too strong to express our indignation, and we might rejoice that the effort to calumniate Mr. Fox has been as clumsy in its execution, as it was disingenuous in its design. Upon either hypothesis, the official accuracy of Mr. Rose is equally conspicuous.

The passage in which alone the words objected to by Mr. Rose are found, relates to the disappointment of those expectations, which Argyle might have naturally



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entertained on his first landing, of being joined by various classes of disaffected persons. The words themselves are applied, not to the soldiers, who either dispersed or pursued the followers of Argyle, but to those who before and at the time of his landing had been employed, or were then actually employed in keeping down the disaffected in different parts of the country.

Fox, p. 121.

Mr. Fox, in an earlier part of his work, has given a most striking account of the desperate situation, to which the Cameronians and other prosecuted persons had been driven. Twelve counties had been given up to a sort of military execution, and the brutality of the soldiers is described to have been "such as might be expected from an Army let loose from all restraint, and employed to execute the royal justice, as it was called, upon wretches." *"The carnage became every day more general and more indiscriminate; and the murder of peasants, in their houses or while employed at their usual work in the field, by the soldiers was not only not reprov'd or punished, but deemed a meritorious service by their superiors."* This was the dreadful state of a large portion of the population of Scotland, and the description is given in the words of Mr. Fox that there may be no possibility of a mistake as to his meaning, which Mr. Rose has so distorted. After reprobating a perverse disposition, which he supposes to have prevailed among, and influenced the conduct of these unfortunate wretches, he says in the

Ib. p. 122.

Ib. p. 122.

passage alluded to by Mr. Rose, "hence, those even, " whose situation was the most desperate, who were " either wandering about the fields, or seeking refuge " in rocks and caverns from *the authorized assassins*, who " were on every side pursuing them, *did not all join in " Argyle's cause with that frankness and cordiality, which " was to be expected.*" It is immaterial to inquire whether Mr. Rose approves, or not, of the application of these epithets to soldiers thus employed in the carnage of unresisting subjects. It is sufficient on the present occasion that the imputation upon Mr. Fox is not supported by any proof produced, and that Mr. Rose has exhibited not only a fresh specimen of incorrectness and inaccuracy, but of inconsistency also in expressing displeasure at the armed agents of a King, when employed in the work of assassination, being described by an appropriate appellation, after he has himself described that King to be a traitor to his country.

Mr. Rose still combating the phantoms existing only in his own disturbed imagination, as a sort of a corollary from that opinion, for which we have shewn there was no foundation, observes, "To what a state must that country " be reduced when every soldier who takes up a musket " in defence of a legitimate Prince shall be considered " as an assassin, if that Prince shall in any instance have " exceeded the just limits of his prerogative." It would indeed be a miserable state for the country, and still more

Does not reflect on the supporters of Kings.

Rose, p. 189.

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miserable for the soldier; but what would Mr. Rose say if the soldier should, with wanton cruelty and brutality, exceed the orders of his King, and yet be applauded, and encouraged by him in such dreadful excesses; what would be the proper appellation for such a soldier, and what Mr. Rose's opinion of such a Prince? It is perhaps hardly fair to put the question, for when he sets up Monk and Montrose as virtuous characters, or at least as fit to be compared with such, because they committed brilliant crimes in the service of Kings, it would be unjust in him to withhold from their most humble agents the proportion of praise due to subordinate wickedness in the same cause.

Mr. Rose seems to have forgotten his reverence for Kings, when he boldly says, "Rebellion is generally Justice and Patriotism in the belief of the Rebel," but he also tells us that impartial history in examining its title to those attributes "is not to forget the probable motives or feelings of that party, with whose political opinions those of the author do not accord. This part of an historian's duty Mr. Fox seems to have overlooked. He is the accuser rather than the judge of *every man* attached to the government of the time." Here Mr. Rose evidently alludes to the appellation he has so incorrectly supposed Mr. Fox had applied to the soldiers, who had opposed Argyle's designs. But if it is meant to include persons of a higher description, Mr.



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Rose may perhaps upon consideration think that he has been too hasty in casting this reproach upon Mr. Fox. He is writing an account of one of the most disgraceful reigns to be found in the English History, equalled only, perhaps, by the one which preceded it, of which also he gives a Sketch. The Ministers and Servants of bad Kings generally partake of the vices and are involved in the crimes of their Masters, yet because they are attached to royalty in Mr. Rose's system a general amnesty is to be granted, and their characters and conduct to pass without reprobation or chastisement? Not so with Mr. Fox; in his Historical Work he has fairly and candidly weighed the merits of all, who were attached to the Government of the time, of which he treats, and if unfortunately he finds little to praise and much to blame, can it be justly imputed to him as a fault? He has not overlooked his duty in this respect, but has performed it faithfully.

It may have occurred to the reader that the discussion here provoked by Mr. Rose is somewhat extraordinary. He professes to be the zealous friend, of the Patriot Sir Patrick Hume, yet upon his own system Sir Patrick was a rebel, and though his conscience might pronounce him innocent, yet there was a guilt incurred by him against the existing Government. If instead of Argyle, Sir Patrick Hume had been condemned to death, and he had been taken in open rebellion, so that nobody could enter-

Mr. Rose gives  
up Sir Patrick  
Hume.

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Rose, p. 190.

tain a doubt about his guilt, the conscience of a counsellor, Mr. Rose must argue, who should have unjustly ordered his execution, could not have been excited to any strong feelings of remorse, at least the sensation would not have been the same, as if it had been the murder of an innocent man. But this attachment to the memory of the ancestor of Mr. Rose's friend is so powerful as to supersede for a moment his attachment for Kings, for though in order to inculcate Argyle, he says, "whatever James's conduct " might have been as Duke of York, he had at the time " of Argyle's invasion done no one act in the least degree " blameable, except that of levying his brother's revenue " by his own authority," which the Parliament did not resent, but granted it with unanimity, yet Mr. Rose had in the preceding page given us to understand that afterwards the full measure of the Monarch's tyrannical usurpation made resistance a duty paramount to every consideration of personal or public danger. Mr. Rose at last discovers that he is a Whig and acknowledges that, notwithstanding his affection for Kings and Ministers, resistance may become a paramount duty: we may now presume, that if the measure of James's tyrannical usurpation had been in Mr. Rose's opinion full when the counsellor was so much agitated at seeing Argyle asleep, there would have been nothing wonderful in it. Had Mr. Rose been that Counsellor, upon his own principles, he must have contemplated the sleeping hero not as a criminal and traitor, but a patriot. His feelings at viewing the victim he had

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unjustly condemned might not only have been diminished by the recollection of his having been found in arms against his Sovereign, but might have been roused to an extreme degree of agitation by the recollection that he had done an act, which was to operate not merely to the destruction of the life of an innocent and highly deserving man, but to deprive his country of the important advantages he had risked his life to procure for it. But upon these principles, will Mr. Rose say that resistance may not become a duty under possible circumstances, without a King having done more than one arbitrary act? Upon this point we will content ourselves with observing that in the declaration of rights, many acts of Charles the Second are enumerated among those which justified the Revolution in the ensuing reign; and Sir Patrick Hume, makes his own justification to depend principally upon the apprehensions, he entertained, of James carrying on "his terrible work of settling and rivetting popery and tyranny in, and eradicating christianity and liberty, the chief blessings of a society, out of these nations."

Hume's Narr.  
P. 7.

Mr. Rose, when professing to tread with respect on the ashes of the dead, denies that Argyle was the hero which Mr. Fox describes him to be, mentions the smallness of the number of persons he was able to attach to his fortunes after he left Holland, as marking the distrust of his ability to conduct them, but forgets that in this statement he pays no compliment to the sagacity and

Sir Patrick  
Hume rashly  
embarked  
under Argyle.  
Rose, p. 183.



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discernment of Sir Patrick Hume, who had so rashly placed himself under his command. It appears also by his narrative now published, that Sir Patrick before he engaged in the expedition was not satisfied that Argyle was assured of being properly supported when he should arrive in Scotland, that he repeatedly applied to Argyle for satisfaction upon this point, and notwithstanding his most earnest solicitations was never indulged with any satisfactory information. He therefore embarked in the expedition, according to Mr. Rose, not only without a just cause for resistance, but without any rational prospect of success, as far as his own personal knowledge could extend, and under a leader, whom Mr. Rose characterizes, as deficient in ability to conduct such an expedition.

Want of information about Monmouth's invasion.

Rose, p. 190.

Mr. Rose introduces the subject of Monmouth's invasion, by lamenting again "the want of materials on the part of Mr. Fox." This was a source of regret to him also, and if Mr. Rose had favoured him with a copy of the interesting paper from the Buccleugh family which he has now presented to the public, it would have been most thankfully received. But whether it was known to Mr. Fox or not, or why if known to him he had not the opportunity of perusing it, neither Mr. Rose, nor any body else can now possibly ascertain.

Fox, p. 228, 248.

Mr. Fox informs us that his account of Monmouth's expedition is taken chiefly from Wade's Narrative, which

is published in the second volume of the Hardwick State Papers, he compliments Wade upon the authenticity of the document, but observes that it is imperfect, because the author relates only those circumstances of which he was an eye witness. It is observable that Wade's Narrative is entitled his "Further Information," and the preceding part being lost, we have no account from him of any communications made to Monmouth, before his embarkation, of the state of that part of England in which he landed, nor, from his confining his information to what he saw himself, are we made acquainted, with the steps taken by the people in the country to support Monmouth after his arrival. Mr. Fox also mentions that the time when Monmouth quitted the field, and the conduct of Lord Grey after the defeat, with many other particulars are very difficult to be made out. To supply these defects in some degree, an account of the rebellion of the Duke of Monmouth in a letter to Dr. James, from the Reverend Mr. Andrew Paschall of Chedsey in Somersetshire is inserted in the Appendix to this Work. It is to be found among Bishop Gibson's papers preserved in the British Museum. The residence of Mr. Paschall was close to the field of battle, and he professes to give some account of the preparations made for Monmouth's reception, and then what fell out next in that part of the country, which from his being present he had an opportunity to observe himself. In the Hardwick State Papers we have not only Wade's Further Information,

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but another narrative supposed to be drawn up by King James himself, but as Mr. Paschall's account is the only one known to be written by a person upon the spot and on the side of the King, it is inserted in the Appendix to this work, and will be found to supply many interesting particulars hitherto not laid before the public.

Mistake of Mr.  
Rose.

Rose, p. 205.

Fox, p. 260.

Mr. Fox's account of Monmouth's invasion having in general escaped without animadversion, we shall only point out a single mistake into which Mr. Rose has fallen, in stating that Mr. Fox supposes that Monmouth had given up all hopes of pardon on quitting James after their interview. Mr. Fox copies Bishop Kennett's relation, "who has been followed by most of our modern historians," stating that "he rose up from his Majesty's feet with a new air of bravery and was carried back to the Tower." Upon which Mr. Fox remarks that "the demeanor attributed to him upon finding the King inexorable is consistent enough with general probability, and his particular character." We have seen repeated instances of Mr. Rose's inattention upon similar occasions, his charge against Mr. Fox of having adopted the supposed censure upon Sir Patrick Hume, which was the cause of his writing the Observations is one, and here Mr. Fox has barely stated what Bishop Kennet has said, with an observation that it is not unlikely to be true. The conduct of Monmouth in cherishing the hope of pardon probably surprized his



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friends, and those who with him, wished to see a change of government, and the religion and liberty of their country rescued from danger. Among them the opinion of James's possessing a severe and inexorable heart was deeply rooted, and formed one of the principal grounds for their apprehensions. But that Monmouth did entertain these hopes seems to have been generally agreed. Lord Lonsdale in his Memoir says " he was brought " up to London, dined at Chivinck's lodgings, where he " saw the King, and both there and by letters asked " for pardon. *What arguments he had to hope it would " be granted, were not certain*\*.

Lonsdale's  
Mem. p. 11.

\* Dalrymple mentions a family tradition, that on the morning of Monmouth's execution, James breakfasted with his Dutchess and delivered her a grant of her great family estate, which had fallen to the Crown by her husband's attainder. In an abstract of royal grants in the possession of the Author of these sheets, it is stated that in the month of January, 1674/5, 36 and 37 Car. 2. a grant was made to the Trustees of the Manors of Spalding and Holbech for 99 years, from the death of his Majesty's Royal Consort at the rent of £5. *per annum*, and also of an acre of land near the Mews, and stables built thereon, for 29 years from the 15th of August, 1689, at the like rent, for the life of the Dutchess of Monmouth, for her separate use, with remainders over to her children. And there is the abstract of another grant in the same month to the same trustees, of all the Chattels real, Goods and Chattels, "*forfeited by the Duke of Monmouth,*" (except the leases before mentioned) in trust that the trustees " shall convey the lease of the house, which the said Duke " had building for him in Soho Square, to Anthony Ward and Andrew " Care, upon their payment of £1200, to the Dutchess of Monmouth. " And as to the rest of the Chattels and Goods shall suffer the

Dal. Mem. i.  
p. 144.

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The public are under obligations to Mr. Rose for presenting them in his Appendix with a very interesting account of the actions and behaviour of Monmouth, from the time of his being brought to London to his execution, which has been mentioned before. It is the more valuable, because it fills up a chasm in the history of this unfortunate Nobleman, which historians have generally lamented, and among them Mr. Fox. Bishop Kennett, but not Mr. Fox as Mr. Rose states, says that Monmouth upon quitting the King after their interview gave up all hopes of a pardon, and prepared himself for death, and this Mr. Fox adds is consistent with probability and his general character. But this document informs us that he employed the greatest part of his time on the evening of that day, and during part of the next, in soliciting his friends and making interest in every possible channel, that his life might be spared, or his execution

“ Dutchess to enjoy them so long as she lives, with further appointments thereof to her children.” But in January, 1685/6, a grant is mentioned to have been made to Ann Dutchess of Buccleugh and her heirs, of the great House or Lodge, and Park called Moor Park, and Messuages and Lands lying in Rickmansworth, in the County of Herts, or near thereunto adjoining, “ forfeited to *his Majesty by the attainder of James late Duke of Monmouth.*” Whether Moor Park ever had been part of the family estate of the Dutchess is not stated. The date of the two first of these entries must be incorrect, for the grants are supposed to have been made in the reign of Charles the Second, and six months before Monmouth’s attainder, possibly they ought to have been dated as of the January in the subsequent year, when the grant of Moor Park was made.

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respired. And when he was satisfied that all his efforts were ineffectual and his execution must take place on the morrow, he assumed a firmness of mind, and conducted himself in all the trying circumstances of the remaining hours of his life with a degree of fortitude and resolution, which has seldom been equalled, and cannot be surpassed in history.

It would have given great pleasure to the author of this work, if Mr. Rose had ended his fifth section and closed his labours with Monmouth's invasion. We have gone on for so many pages in good humour, that it is mortifying to be called again to hostilities. Mr. Rose thinks it necessary to conclude with a sort of recapitulation of his motives for writing the Observations, and in doing this repeats the supposed errors and defects in the Historical Work, which have called for animadversion. Again he boasts of his impartiality, and prides himself upon the caution and delicacy, with which he conceives he has performed the task. Mr. Rose no doubt believes that he is entitled to the praise he claims, but to the reader it is left to say whether still living in the atmosphere of party he has been, or upon his own principles can be, a competent judge of his own feelings and conduct.

Of Mr. Rose's original motive for criticising Mr. Fox's work, now repeated for the tenth time, enough and more than enough has been said already. But, "as a friend

Mr. Fox does  
not degrade  
Monarchs.



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Rose, p. 212.

“ to the British constitution,” it seems that Mr. Rose, in the course of his investigation met with a more public and general kind of object which he “ became equally “ solicitous to attain.” He tells us, what in theory sounds well, that the equipoise of the component parts of our constitution, “ the Monarchical, the Aristocratical, and “ the popular, is the basis of the system :—that equipoise “ will be in danger of being lost, or its useful exercise “ very much impeded, if the people shall be taught con- “ temptuous notions of any of these component parts, “ or aggravated ideas of its probable abuse.” As it might be difficult to prove that the equipoise, here alluded to, ever existed, it is not necessary to inquire what might be the consequence in case it should be in danger of being lost, or its useful exercise impeded.

Rose, p. 213.

Laying aside all trifling and verbal criticisms, we acknowledge that Mr. Rose at last speaks out and avows, that he wrote, because Mr. Fox's book seemed to be calculated, or rather to have a tendency to degrade and vilify a limited monarchy in the minds of the people. Yet with his usual inconsistency, he begins his recapitulation of the proofs he has produced by an observation, which would be a complete justification of Mr. Fox's conduct, if it had been such as he has described. He says “ Mr. Fox's work exhibits royalty at a time, and amidst “ a train of events in which the tyranny of the Sovereign “ at home was not redeemed or alleviated by glory or

"success abroad." Under these circumstances is Mr. Fox to blame, if he can say nothing good of these Kings? or why is he to be charged with having written to degrade and vilify monarchs in general, because he has traced the prevailing vices of some who have disgraced a throne in terms less offensive than Mr. Rose himself has done? does Mr. Rose claim the exclusive right of describing these vices? or of prescribing the terms in which others shall do it? The next complaint is that Mr. Fox speaking incidentally of Cromwell's usurpation, has only noticed its energy and not its injustice. Mr. Rose however, justifies Mr. Fox for only mentioning it incidentally, by admitting, that it does not fall within the period to which he had limited himself; and it is also acknowledged that glory and success attended it.

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The remaining facts mentioned have been fully discussed and answered already, except the last, which is noticed in terms intelligible perhaps to some of our readers. The words are, "and professing admiration of the revolution of 1688, he has deprived it of some of those honours which every inhabitant of this favoured country is bound to acknowledge with that reverence and attachment due," &c. of what honours Mr. Fox has deprived the revolution, or in what manner we are not informed. And to what part of Mr. Fox's work this observation is intended to allude, it is not easy to conjecture; for he thought most highly of the revolution;

Mr. Fox does  
not detract  
from the Revolution.

Rose, p. 214.

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and manifested his partiality to it by selecting it as the object of his Historical Work. He would not willingly have deprived it of any honours, which Mr. Rose could wish it to be distinguished by. Possibly, but it is mere conjecture, Mr. Rose had in view the compliment supposed to be paid to the year 1679, as the great æra of theoretical perfection. But it has been shewn in the first section that, perfect as the constitution was in theory in that year, it is not disputed that there were still further improvements made at, and after the Revolution.

Mr. Rose then renews his assurances, that though he has differed from Mr. Fox with freedom and zeal, yet he hopes he has done it temperately, and with fairness and candour. That he has done it with freedom and zeal, and thinks he has done it with fairness and candour, may be admitted.

Mr. Fox has  
not sacrificed  
the truth of  
history.

Mr. Rose in his concluding paragraph boasts of his speaking "impersonally," and he hopes it will be allowed justly, when he makes a general observation respecting the proper province of history, but the last sentence evidently shews that though he might be speaking justly he was not speaking *impersonally*, if by that word is meant, without reference to any person. His words are "But history cannot connect itself with party without forfeiting its name; without departing from the truth, the dignity and the use-

Rose, p. 215.



"fulness of its functions." After the remarks he has made in some of his preceding pages, and the apology he has offered for Mr. Fox in his last preceding paragraph for having been mistaken in his view of some leading points, there can be no difficulty in concluding that this general observation is meant to be applied to the Historical Work. The charge intended to be insinuated must be, that in Mr. Fox's hands history has forfeited the name by being connected with party, and has departed from the truth, the dignity and the usefulness of its functions. It were to be wished that Mr. Rose had explained himself more fully, for after assuming that the application of this observation is too obvious to be mistaken, there still remains some difficulty with respect to its meaning. If it is confined to such publications, as are written under the title of histories, but are intended to serve the purposes of a party, and truth is sacrificed, and facts perverted to defend and give currency to their tenets, we do not dispute its propriety, but if that is the character which Mr. Rose would give to Mr. Fox's labours, he has not treated him with candour, or even common justice. Mr. Rose has never in any one instance intimated that Mr. Fox has wilfully departed from truth, or strayed from the proper province of history, for the purpose of indulging his private or party feelings. But if Mr. Rose intends that the observation should be applied to all histories, the authors of which have felt strongly the influence of political connections and principles,

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what must become of most of the histories of England? Is the title of historian to be denied to Mr. Hume? and in what class are to be placed Echard, Kennet, Rapin, Dalrymple, or Macpherson? In this point of view the principle laid down is too broad. A person, though connected with party, may write an impartial history of events, which occurred a century before, and, till this last sentence, Mr. Rose has not ventured to intimate that Mr. Fox has not done so. On the contrary, he has declared his approbation of a great portion of the Work, and his attempts to discover material errors in the remainder, have uniformly failed in every particular. If it might be assumed that there existed in the book no faults, besides those which the scrutinizing eye of Mr. Rose has discovered, it might be justly deemed the most perfect work that ever came from the press; for not a single deviation from the strictest duty of a historian has been pointed out, while instances of candour and impartiality present themselves in almost every page, and Mr. Rose himself has acknowledged and applauded many of them.

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## APPENDIX,

### CONTAINING

- I. Historical Account of the Tenure, by which the Judges held their Offices under the House of Stuart, and List of most of those, who were removed for political causes.
  - II. Letter from Charles II. to the Chancellor, concerning the Execution of Sir Henry Vane.
  - III. Letter from Mr. J. Aprice to Mr. William Linwood, giving an Account of the Reconciliation of Charles II. to the Romish Church in his last Illness.
  - IV. Account of the Duke of Monmouth's Invasion by the Reverend Mr. Andrew Paschall, of Chedsey.
  - V. Defence of Bishop Burnet's Veracity in the Statement of Historical Facts, and Circumstances.
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## APPENDIX.

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### I. HISTORICAL ACCOUNT of the TENURE by which the JUDGES held their OFFICES under the HOUSE of STUART, and LIST of most of those, who were removed for POLITICAL CAUSES.

IT is stated by Mr. Rose, that on a search in the Rolls, it appears that during the reigns of Elizabeth and James the First, "the commissions of the Chief Justices of the King's Bench were general, without any specification of the tenure," and of course they were removeable at the pleasure of the King. Sir Francis Bacon in a paper addressed to James the First, advising about the displacing of Sir Edward Coke from this office, considers this power as a personal prerogative of the King; his words are, "considering he holdeth his place but during your will and pleasure, nor the choice of a fit man to be put in his room are council table matters, but are to proceed wholly from your Majesty's great wisdom and gracious pleasure. So that it is but the signification of your pleasure, and the business is at an end as to him." Mr. Rose also informs us that the puisne Judges of both the King's Bench, and Common Pleas, held by the express words of their patents, *quam diu nobis placuerit*\*, that the Chief Justice of the Common Pleas held also by the same tenure, but that the Chief Baron, and other Barons of the Exchequer were appointed *quam diu se bene gesserint*.

Rose, p. 35,  
note.

Bacon's Works,  
oct. vi. p. 125.

\* It is hardly worth noticing that this is not the usual expression, by which a tenure at the will of the Crown is described.

Charles the First took an early opportunity of manifesting the arbitrary notions, which had accompanied him to the throne, by the removal of Sir Randolf Crew from the office of Chief Justice of the King's Bench, in the second year of his reign. He also displaced Sir Robert Heath Chief Justice of the Common Pleas, but was baffled in his attempt to remove Sir John Walter, who was Chief Baron of the Exchequer, for he refused to surrender his patent, which was *quam diu se bene gesserit*, and continued in office till his death, though upon the command of the King he had declined sitting in Court. His successor Sir Humphrey Davenport, as Mr. Rose says, in the sixth year of the reign of Charles, accepted a patent by which he was made to hold at the pleasure of the King, and is probably the first Chief Baron of the Exchequer, who ever was so appointed. Mr. Rose says, that the patents of the other Barons "were afterwards conformable" to his, whence it might be concluded that they so continued, at least for the remainder of this reign. But the patents of the Chief and other the Barons of the Exchequer, soon afterwards ceased for a time to be determinable at will, as will be stated presently, though for some years after the change made in Sir Humphry Davenport's case, all the Judges without exception held their offices at the pleasure of the King.

When the House of Commons in a subsequent period of this reign, were making inquiries respecting the conduct of the Judges, and preparing to impeach some of them for their judgments in the case of ship money, and other supposed offences, the alteration which the King had made in the tenure of these great judicial offices, and the arbitrary removals which had taken place naturally fell under the consideration of the House of Commons. And when Mr. Hollis went up with the articles of impeachment, he prayed in his concluding speech, in the name of the House of Commons, that the Lords would join them in an address to the King on the behalf of Sir Randolf Crew, who had been long removed from his office of Chief Justice of the King's Bench. The Lords seem not to have noticed this application, but to have taken up the business of the patents of the Judges without asking the concurrence, or having any communication with the Commons, for in the Journals of the latter are no entries concerning them. But the Lords' Journals



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contain very satisfactory information. On the 11th of January, 1640, Lords' Journ. iv. p. 129.  
 Lords' Committees were appointed to consider about a particular bill, and likewise to consider of Judges holding their places *durante bene placito*. On the 12th, certain Lords were deputed "to attend his Majesty, and present the humble desires of this House," that he would be pleased, "that the Justices of the King's Bench and Common Pleas, and Barons of the Exchequer, and Attorney of the Court of Wards and Liveries may hold their places by patent, *quam diu se bene gesserint*, and not *durante bene placito*." On the 13th, the Lords were appointed to wait upon the King in the afternoon; and on the 15th, the Earl Marshal and the Lord Chamberlain reported that they had presented to his Majesty the humble desire of the House, "that all the Justices of the King's Bench and Court of Common Pleas, and the Barons of the Exchequer that go circuits, may hold their places by patent from his Majesty *quam diu se bene gesserint*, and not *durante bene placito*; unto which request his Majesty is graciously pleased to condescend." Ib. p. 130.  
 Ib. p. 131.  
 Ib. p. 132.

In consequence of this arrangement the patent of Thomas Mallet, one of the Justices of the Common Pleas, dated the 1st of July, 1641, was made *quam diu se bene gesserit*. And four days afterwards, when the King gave the royal assent to the bills for taking away the High Commission Court, and regulating the Court of Star Chamber, he said in his speech, "If you consider what I have done this Parliament, discontents will not sit in your hearts; for I hope you remember, that I have granted that the Judges hereafter shall hold their places *quam diu se bene gesserint*." The King probably was faithful to his promise, and the patents of the Judges altered for the remainder of his reign. Besides Sir Thomas Mallet, there were, according to the Political Index, (which with respect to the judicial lists, is so inaccurate as not much to be relied upon) the following Judges made between the time when the King assented to the alteration, and the end of his reign, viz. on the 23rd of January, 1640, Sir Robert Heath a Judge of the King's Bench; on the 29th of the same month, Sir John Banks Chief Justice of the Common Pleas; and the 31st of January, Rymer, Fœd. xx. p. 517.  
 Rushw. iii. p. 1366.

1643, Sir Robert Brerewood a Judge of the King's Bench. But the Parliament was not satisfied, and, in the petition and propositions for peace of both houses presented to the King in the latter end of January, 1642, desired the King to restore Sir John Bramston, who had been removed from the office of Chief Justice of the King's Bench, and fill all the Judges places with persons named by them, and also that they, and all the Judges for the time to come, might hold their places *quam diu se bene gesserint*.

During the protectorate of Oliver Cromwell, either the patents of the Barons of the Exchequer and of the other Courts must have been made out *durante bene placito* only, or he disregarded them altogether, for he removed a Baron of the Exchequer, and a Judge of the Court of Upper Bench, (which was the name then given to the Court of King's Bench,) as appears from the following list.

Rushw. iii.  
p. 1366.

Ventr. Rep. i.  
p. 82.

Charles the Second, for some time after his restoration, continued the alteration his father had adopted, and Hyde was made Chief Justice of the King's Bench, Bridgman first Chief Baron and then Chief Justice of the Common Pleas, Forster a Judge of the King's Bench, and then Chief Justice of the Common Pleas, and they, as well as others who were raised to the Bench, held their offices *quam diu se bene gesserint*. But for what period of time the patents of the Judges were continued in this form, I have been unable to trace. It is probable that a change was made before Dighton's case, which came before the Court of King's Bench in Trinity Term, 22 Car. II. (1670) for then the offices of judicature in Westminster were mentioned by the Court to be held only *durante bene placito*. But it was not till the year 1672, after the Duke of York had declared his conversion to the catholic religion, and the King was driven to extremities, that a formal attack was made upon the independency of the Judges; steps were then taken to remove Archer one of the Justices of the Common Pleas, he resisted, relying upon his patent from the reigning King, which was *quam diu se bene gesserit*, but submitted to the King's order not to appear

in Court. It is probable that without any noise being made upon the subject, all the subsequent patents of the Judges were made to hold at the pleasure of the King. Welwood remarks that the better to hold a rod over the Judges, the clause *quam diu se bene gesserit* was left out of their patents, and a new clause *durante bene placito* inserted, but he does not fix the time when that alteration was made. The attempt to remove Archer, was made in the Christmas vacation of 1672, and Sir William Wild, who was appointed a Judge of the King's Bench in the next Hilary Term, and Sir Robert Atkins, who was placed on the Bench of the Common Pleas in the succeeding Easter Term, were both removed by the King in 1679, without any contest, while none of the Judges, appointed previous to 1672, appear to have been disturbed in their offices.

The first removal of Judges, holding under these new patents, was in the year 1679, when there was a change of measures, and an appointment of a popular privy council. Four Judges were then removed without Historians having assigned any particular reason for it, but the Duke of York describes them as loyal subjects, and speaks of their successors as appointed with intention to fall upon him, and being men, who would find what they please to be law. The following list renders it unnecessary to state the particulars of each separate removal in this, or the ensuing reign.

Dal. Mem. ii.  
p. 266.

In the year 1680, the leaders of the popular party in Parliament were desirous to be upon good terms with the King, and, among the propositions they offered, one was that the patents of the Judges should be altered, and made *quam diu se bene gesserint*, but a change of administration taking place shortly afterwards, Charles returned to his former arbitrary system of Government, and the Judges continued to hold at his pleasure. In the remainder of his reign it will be seen by the list, that he made several removals.

Macph. Stat.  
Pap. i. 111.

Upon the demise of a King the patents of all the Judges expired of course, and it so happened that Charles the Second dying about ten in the morning upon Friday the 6th of February, 1685. when

Show. Rep.  
ii. p. 425.



the Courts were sitting, the intelligence was brought, and they all rose. The next morning the patents of all the Judges were renewed, they were sworn in at the Lord Keeper's House, and came into Court as usual and heard a few motions, the King's Counsel being without the bar, because their patents were not then renewed. In the reign of James, the prerogative of the Crown was frequently exercised in the removal of judges, for in the short space of four years thirteen were made to feel their dependence upon the Crown. But three of these were removed by the King when, reduced to the last extremity, he endeavoured to preserve his throne by submitting to the wishes of his people and may be deducted from this number. Considering that many of the remaining ten were promoted in this reign, and that no means were left untried to make them subservient to the pleasure of the King, it is matter of surprise that there should be found so many deficient in courtly pliancy. In the year 1686, four, whom Sir John Reresby describes as gentlemen of great learning and loyalty, were dismissed at once, because when closetted by the King they had the courage to refuse to give their opinion in favour of the power of the Crown to dispense with penal statutes. Two were removed in 1687 for resisting the illegal execution of a convicted felon, a transaction which reflects the greatest ignominy on the character of James, and stains his memory with one of the foulest of crimes. And in 1688 two more were dismissed, because they gave opinions upon the Bench in favour of criminals tried before them. It is remarkable that of the Judges discharged from their offices, in this, and the preceding reign, there does not appear to have been one, who by any flagrant act of immorality or corruption, was in the general opinion of the public unworthy of filling a seat upon the Bench.

James, just before his flight, recalled the Patents of one of the Judges of the King's Bench and two of the Barons of the Exchequer, and left vacant the seat of one of the Barons, who had died not long before.

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the Judges who were in town continued to act, and in some counties a session of the peace was held, and writs were issued tested the last day of Michaelmas term. The Judges who happened to be in town, viz. Street, Stringer, and Rotheram, intended to have held the Essoigns regularly on the Essoign day, but they were forbid on the day before. There seems to have been a difference of opinion, whether the King's privately retiring beyond sea was to be considered as a demise of the crown or not; some held that it was, and consequently that the commissions of the Judges were determined and none of them ought to have acted afterwards. In fact, however, Hilary term was not kept; and King William and Queen Mary afterwards appointed new Judges to fill the benches of all the Courts, as if the commissions of the old Judges had expired regularly by a demise of the crown. And this was done, Burnet tells us, so as to give universal satisfaction. The King ordered every Privy Counsellor to make out a list of twelve names, and out of them "twelve very learned and worthy Judges" were chosen." On the first day of Easter term, 17th of April, 1689, the Courts were opened, and Sir John Holt and Sir William Dolben sat in the Court of King's Bench, the former as Chief Justice; in the Common Pleas, Sir John Powell and Sir William Gregory; and in the Exchequer, Sir Robert Atkins as Chief Baron, and Sir Edward Nevill; for as Lord Clarendon says, "These were all the Judges who were yet made; the rest who were designed not being yet serjeants." As Sir William Gregory was undoubtedly one of the Judges of the King's Bench when its number was full, there either must be a mistake in the Earl of Clarendon's statement, or Gregory must have been immediately removed into the King's Bench; and, according to Beatson, (if he could be trusted,) that was the case; for he states him to have been made a Judge of the Common Pleas on the 17th of April, and of the King's Bench on the 20th. Wynne also seems not to be correct, when, in his Treatise upon the Degree of Serjeants at Law, he mentions the name of John Powell as one of the Serjeants called upon this occasion, and as being now appointed one of the Judges of the Common Pleas; for the Earl of Clarendon says, that Sir — Powell (unquestionably meaning Sir John Powell,) sat in the Court of Common Pleas on the first day of Easter term, but the Sir John Powell, mentioned by

Skin. Rep. p. 271.

Mod. Rep. iii. p. 253.

Burn. O. T. ii. p. 5.

Clar. Diary. p. 183.

Mod. Rep. iii. p. 253.

Wynne, p. 89.

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Comyns Rep.  
p. 1.

Wynne, was not made a Judge till some years afterwards. The fact is, that there were two Powells, who were knights and had the Christian name of John; and what is rather remarkable, they both sat together afterwards (Hil. 7 W. 3.) as Judges of the Common Pleas, and thus the mistake may be easily accounted for. The change made at the Revolution was so complete, that, of the Judges appointed by King James, there does not appear to have been a single one who was allowed to resume his seat; and Sir William Dolben, Sir William Gregory, Sir John Powell, Sir Robert Atkins, and Sir Edward Nevill, who had all been displaced by him, were restored to the Bench.

Id R. ay, ii.  
p. 747.

The writ of Sir John Holt was made out *quamdiu se bene gesserit*, and it is not to be doubted that the commissions of all the other Judges were made out in the same form, and so they probably continued till the end of the reign of Queen Anne. This was done by order from the crown, not in consequence of any interference of the legislature, for the statute of the 12 and 13 W. III. c. 2. s. 3. did not take effect till after the decease of Queen Anne and King William, without issue. By that act, which limited the crown to the Princess Sophia, Electress and Dutchess Dowager of Hanover, and her descendants, it was enacted, that *after that limitation should take effect* the commissions of the Judges should be made *quamdiu se bene gesserint*, but that, upon an address of both houses of parliament, it should be lawful to remove them. By the 7 and 8 W. 3. c. 28. s. 21. the commissions of the Judges were made to remain in force for six months after the death or demise of the King, or any of his successors. Upon the accession of Queen Anne, Sir John Holt conceiving his appointment to be revoked, notwithstanding the 12. and 13 W. 3. he and all the other Judges ceased to sit, and new commissions were issued to all of them except two; and though the Judges, upon the accession of George the First, in consequence of this act, became irremoveable by the Prince who called them to the bench, yet their commissions continued as before to terminate upon a demise of the crown. At the accession of George the First, three Judges were omitted in the new appointments; and at that of George the Second, being the first after the before-mentioned limitation had taken effect, one Judge only was not reappointed.



When his present Majesty ascended the throne, all the Judges who had been in office at the demise of the late King, were without any exception called upon to resume their seats. And on the 3d of March, 1761, his Majesty was pleased to point out from the throne the inconvenience of the offices of the Judges being determined upon the demise of the crown, or at the expiration of six months afterwards. He declared that he looked upon "the independency and uprightness" of the Judges of the land as essential to the impartial administration of justice, as one of the best securities to the rights and liberties of his loving subjects, "and as most conducive to the honour of the crown." He, therefore, recommended provision to be made to prevent the inconvenience in future, and that he might be enabled to grant such salaries to the Judges as he should think proper, so as to be absolutely secured to them during the continuance of their commissions. In consequence, the 1 Geo. III. c. 23. was passed, whereby the Judges are continued in their offices during their good behaviour, notwithstanding any demise of the crown, and their full salaries absolutely secured to them during the continuance of their commissions; reserving, however, to the crown power to remove any Judge upon an address from both Houses of Parliament.

Com. Journ.  
xxviii. p. 1094.

Of the importance of the acquisition made by the acts just mentioned in favour of the liberty and happiness of the people of this country, it is scarcely possible to think too highly. A perusal of the following list may give some faint idea of it:

In the reign of James the First,

SIR EDWARD COKE was made Chief Justice of the King's Bench, on the 23d day of October, 1613, and was discharged by writ on the 15th day of November, 1616. (14 Jac.) He was succeeded by Sir Henry Montague. His arrogance and overbearing temper made him disliked, and he had the misfortune to be the rival and enemy of Sir Francis Bacon for many years of his life. He was appointed Chief Justice of the Common Pleas on the 30th June, 1606, and in Reasons why he should be removed and made Chief Justice of the King's Bench (upon

Cro. Jac. In-  
trod. Cro. Car.  
p. 227. Ba-  
con's Works,  
octavo. Ed.  
vi. 72. 121,  
&c. 397, &c.

the vacancy occasioned by Sir Thomas Fleming, who died about August, 1613,) drawn up by Sir Francis Bacon, it is said, " Besides the remove of Sir Edward Coke to a place of less profit, though it be with his will, will be thought abroad a kind of discipline to him for opposing himself in the King's causes; the example whereof will contain others in more awe." It seems that this expedient was not successful, and Sir Edward Coke continued to act in the same manner in his new office as had before provoked the displeasure of the court. And besides other offences, real or imaginary, which may have been imputed to him, there is preserved in Lord Chancellor Bacon's works, a list of innovations introduced by him into the laws and government. In short, he was charged with having, while he was on the Bench, acted in derogation of the rights of the church and the royal prerogative, and the jurisdiction of other courts, and his books of reports were examined, and many exceptionable passages pointed out. He was, on the 30th of June, 1616, convened before Lord Ellesmere, then Lord Chancellor, and Sir Francis Bacon, then Attorney General, assisted by some of the Judges and the King's learned Counsel, but not behaving in a satisfactory manner, he was commanded, until their report was made and the King's pleasure known, to forbear to sit at Westminster or go the circuits, but not to be restrained from exercising his office in private. He was allowed to take the long vacation for reviewing his reports, and was to retract or explain the objectionable passages to the satisfaction of the King. On the 17th October, he was called again before the Chancellor, when he was told the errors he had admitted, and the excuses he had made were not satisfactory; and five questions, founded on so many specific cases, were pointed out for his particular consideration. Sir Edward gave separate answers to each, and repeated an offer he had made before to explain them so as not to affect his Majesty's prerogative, and if that offer should not be accepted, then to refer it to all the Judges of England. The King, however, was not satisfied, and Sir Edward was removed from his office as above-mentioned, on the 16th of November following.

## In the reign of Charles the First.

SIR RANDOLPH CREW, appointed Chief Justice of the King's Bench the 26th of January, 1624, (22 Jac.) was removed by writ under the great seal, on the 10th of November, 1626, (M. 2 Car.) and succeeded in the next term by Sir Nicholas Hyde. Sir George Croke says, he was removed "for some cause of displeasure conceived against him, " but for what was not generally known." But Whitelocke informs us that it was occasioned by his resisting the illegal mode of raising supplies by loans and benevolences. Mr. Hollis, on the 6th of July, 1641, in his concluding speech, when the Commons carried up their articles of impeachment against the Judges for their conduct in the case of ship-money, prayed in the name of the Commons the concurrence of the other house in a joint address to the King, to give to Sir Randolph Crew such honour, as might be a noble mark of sovereign grace and favour, and to remain to him and his posterity; and might be, in some measure, a proportionable compensation for the great loss he had with so much patience and resolution sustained. He also stated the profits of the office in the fourteen years, during which Sir Randolph Crew had been deprived of them, to amount to £26,000 or thereabouts.

W. Jones Rep.  
p. 143.  
Whitel. Mem.  
p. 8. Cro. Car.  
p. 52. Rushw. ii.  
p. 1352. Parl.  
Hist. ix. p. 464.

2. SIR JOHN WALTER was appointed Lord Chief Baron of the Exchequer in 1625 \*. (1 Car. I.) In the year 1628, according to Whitelock, he was put out of his place, but his patent being *quam diu se bene gesserit*, he refused to surrender his office without a *scire facias* to shew what cause of forfeiture he had committed; so that he continued Chief Baron till his death, on the 18th of November, 1630. (6 Car.) But at the beginning of the Michaelmas term, (5 Car.) before he had taken his seat, the King commanded him, by message, to forbear from the exercise of any judicial authority in Court, which command he obeyed, and never sat in the Court afterwards. He was discharged for not having dealt plainly with the King with respect to

Whitel. Mem.  
p. 11. 16. Cro.  
Car. p. 203. and  
at the end.  
W. Jones Rep.  
p. 228. 230.  
Cro. Car. Table  
of the Judges  
at the end.

\* According to Sir George Croke, but Sir William Jones says it was in the fifth of Charles's reign.



the imprisoned members, as if he had given his opinion privately, so as to encourage the King to proceed against them, and afterwards deserted him and embraced another opinion. There was "some speech" of making Sir James Whitelocke, who then was a Judge of the King's Bench, Chief Baron in his place, if he had vacated, but Whitelocke did not chuse to meddle with the office when Walter stood upon the form of his patent. And this gave rise to what is mentioned by Sir William Jones, that Whitelocke had a promise of the place in the life time of Walter, but missed it. Upon his death, Sir Humphry Davenport, one of the Justices of the Common Pleas, was (P. 7 Car.) made Chief Baron, and took his patent *durante bene placito* only, being the first instance of any person holding that office by such a tenure.

Rushw. p. 253.  
W. Jones Rep.  
p. 247. 350.  
Cro.Car.p.225.  
375.

3. SIR ROBERT HEATH, Chief Justice of the Court of Common Pleas, was sworn in on the 27th of October, 1631, and according to Sir William Jones, was removed on the 30th, but according to Croke on the 14th of September, 1634. (10 Car.) He was succeeded in Michaelmas term following, by Sir John Finch, who, Croke tells us, had been appointed two days after his removal, was made Serjeant on the first day of Michaelmas term, (10. Car.) and sworn in on the Thursday following, which was the 16th of October. This sudden advancement of Sir John Finch occasioned much observation, but the issuing of the writ for ship-money, on the 20th of October, only four days after he was sworn in, gave rise to a general belief that he was to be instrumental in advancing this favourite object of the court. Sir Robert Heath had been Recorder of the City of London, and Solicitor, and Attorney to the King; and after his removal had a licence to practice behind the bar, but had precedence only as he was in antiency of Serjeants, that is, he was puisne Serjeant. This was granted by the King upon his petition, by advice of the Lords of the Council; and he might plead in all the King's Courts at Westminster, except the Star chamber. He appeared at the bar on the first day of the term in his place of Junior Serjeant at Law, and continued to practise as such.

## APPENDIX. No. I.

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4. SIR JOHN BRAMPSTON was sworn into the office of Chief Justice of the Court of King's Bench on the 18th of April, 1635, and was removed in 1642, (18 Car.) because being bound by recognizance to attend the parliament on an accusation preferred against him, he could not be present at a commission of Oyer and Terminer, held at Killingworth Castle, to attain the Earl of Essex and others of high treason. He held *ad placitum nostrum*, and the writ for his removal is preserved in Rymer's *foedera*, tested the 10th of October, (18. Car.) 1642. His successor was Sir Robert Heath, one of the Justices of the Court of King's Bench. Lord Clarendon describes Sir John Brampton to have been a man of great integrity and learning, and to have been removed without any purpose of disfavour, but as the Lords and Commons in their petition and propositions presented to the King at Oxford, in the end of January in the same year, proposed that he should be restored to his office, suspicions may arise that his removal was occasioned by political motives, and therefore his name is placed in this list.

W. Jones Rep.  
p. 358. Clar.  
Hist. ii. p. 42.  
121. Rymer  
Foed. xx. p.  
536.

### In the Protectorate of Oliver Cromwell.

1. FRANCIS THORPE was by the parliament voted to be one of the Barons of the Exchequer in June, 1640, but he was removed in May, 1655, for not serving, as Whitelock says, the Protector's pleasure in all his commands. It is not unlikely that he was afterwards made a Baron of the Exchequer, for one of the name of Thorpe was in that Court in Hil. 1659.

Whitel. Mem.  
p. 387. 606.  
Hard. Rep. p.  
162. Noble's  
House of Crom-  
well, i. p. 434.

2. RICHARD NEWDIGATE was a Judge of the Court of Upper Bench in Hil. 1654, and in May, 1655, was removed for the same reason as Thorpe. He was probably restored to his office, for one of his name was the puisne Judge of that Court in T. 1658, and so continued till Hil. 1659, when he is mentioned as being the Chief Justice.

Sty. Rep. p.  
435. Sid. ii.  
p. 92. 163.  
Noble, i. p.  
431.

3. HENRY ROLLE was ordered by the parliament to be made Chief Justice of the Court of Upper Bench, in October 1648, and surrendered his office, on his refusal to sit on the trial of Penruddock and others in May, 1655. He was succeeded by John Glynn, in October 1656,

Whitel. Mem.  
p. 337. 643.  
Clar. Hist. iii.  
p. 435. Styl.  
Rep. p. 452.  
2 Sid. p. 159.

who died in 1659, and was succeeded by Newdigate, as before-mentioned.

In the reign of Charles the Second.

**1. JOHN ARCHER** was appointed a Judge of the Court of Common Pleas on the 4th of November, 1663, and was removed in the Christmas vacation of 1672, (24 Car. 2.) being then the senior puisne Judge, and was succeeded by Sir William Ellis. Sir Thomas Raymond says Archer was removed, *pro quibusdam causis mihi incognitis*, but having a patent *quam diu se bene gesserit* he refused to surrender it without a *scire facias*. Notwithstanding he was prohibited from sitting in the Court or exercising his office elsewhere, he continued to be a Justice, and received a share in the profits of the Court as to fees and other proceedings, and his name was used in fines, &c. when Rushworth wrote, and until his death. Sir William Ellis sat in Court on the first day of Hilary Term, 1672; and on the same day, Sir Hugh Windham, who was the puisne Baron of the Exchequer, also took his place as senior Judge of the Common Pleas, Wild being removed from the Common Pleas into the King's Bench, to fill up the Vacancy occasioned by Morton's death. These removals were made at the desire of Sir Edward Thurland, who chose rather to be a Baron of the Exchequer, than a Justice of either of the other Courts, and the Chancellor in his speech complimented him upon his modesty, "in that he chose rather to be serviceable than rich."

**2. SIR WILLIAM ELLIS** was appointed one of the Justices of the Court of Common Pleas in 1672, removed in the long vacation in 1676, and succeeded by Sir William Scroggs, who was sworn in on the first day of Michaelmas term. Sir William Ellis was afterwards made one of the Justices of the Court of King's Bench, with precedency to Sir Thomas Jones, and Sir William Dolben, Justices of that Court, because they were "put in after his turning out;" but this was only signified verbally by the King, and not expressed in his patent. He died in that situation on the 3d of December, 1680, aged seventy-one; though upon the Duke of York's return from Scotland in that year, the cavaliers were displeased that he was not turned out.



3. SIR THOMAS TWISDEN, was appointed a Justice of the Court of King's Bench in 1660, and in 1678, his attendance was dispensed with on account of his great age. He still continued to be a Judge, and, as was said, had a pension of £500 a year. Sir William Dolben was appointed a Judge of this Court, and sat, instead of Twisden, till his death, which happened in 1682, he died aged 81 years. Sir William continued to be Judge of this Court after Twisden's death, but only for a short time before he was himself removed. Noble, in his Memoirs of the Protectoral House of Cromwell, says of Twisden, that "being too virtuous for the place he held he received his *quietus*, after sitting "upon the Bench 20 years."

T. Ray. Rep.  
p. 475.  
Mod. Rep. iii.  
p. 4.  
Noble, p. 438.

4. SIR ROBERT ATKINS, was made a Justice of the Court of Common Pleas in 1672, (E. 24 Car. 2.) and displaced upon the day before Hilary Term 1679, by writ under the Great Seal. He was succeeded by Sir Thomas Raymond, a Baron of the Exchequer. The cause of his removal probably was that he was connected with Lord Russell and the Whigs, who withdrew from the Council Board about this time, being displeased with the King and the majority of the council for treating lightly the Popish Plot. In the New Biographical Dictionary it is said, that "from a foresight of very troublesome times, he resigned "his office, and retired into the country." At the Revolution he was made Chief Baron of the Exchequer.

T. Jones. Rep.  
p. 42.  
Mod. Rep. iii.  
p. 4.  
Comp. Hist.  
iii. p. 379.

5. SIR WILLIAM WILD was appointed a Justice of the King's Bench in 1672, (24. Car. 2.) and sworn in upon the day before Hilary Term began, and removed in 1679. (P. 31 Car. 2.) His successor was Sir Francis Pemberton.

T. Jones. Rep.  
p. 43.  
Show. Rep.  
ii p. 23.  
Keb. Rep. iii.  
p. 102.

6. FRANCIS BRAMPSTON, a Baron of the Exchequer, was appointed in the year 1678. (T. 20 Car. 2.) and removed in April 1679. And was succeeded by Sir Edward Atkyns.

Raym. Rep.  
p. 244.

7. SIR FRANCIS PEMBERTON, a Justice of the King's Bench, was appointed in April, and sworn in the 5th of May, 1679, was removed

Raym. Rep.  
p. 251.  
Show. ii. p. 33.  
94.

in the month of February following, (32 Car. 2.) and succeeded by Sir Thomas Raymond. He practised again in all the Courts of Westminster Hall, but without the bar, as a Serjeant.

Vent. i. p. 329,  
354.  
Show. ii. p. 155.  
Macph. Stat.  
Pap. i. p. 106.  
Stat. Tr. iv.  
p. 166.

8. SIR WILLIAM SCROGGS, Chief Justice of the King's Bench, was appointed in 1678, (T. 30 Car. 2.) and removed in 1681, in the Easter vacation, (33 Car. 2.) being succeeded by Sir Francis Pemberton. In 1680, the House of Commons fell upon the Duke of York's friends, and among the rest Lord Chief Justice Scroggs, they resolved that he should be impeached of high treason, and articles were prepared and ordered to be sent to the Lords, but the King prorogued the Parliament on the 10th of January, and dissolved it on the 20th. And in the Easter Term following, Scroggs who had declined to sit in Court for several preceding Terms, was discharged from his office, in order that Fitzharris might be tried, but was recompensed with a pension.

Show. ii. p. 232,  
511.  
T. Ray. p. 478  
T. Jones, p. 231,  
293  
Mod. iii. p. 38.  
St. Tr. iii.  
p. 547.

9. SIR FRANCIS PEMBERTON, Chief Justice of the King's Bench, was appointed in 1681, for the trial of Fitzharris, and made Chief Justice of the Common Pleas on the day before the first day of Hilary Term, 1683, (34 Car. 2.) in the room of Sir Francis North, who on the death of Lord Nottingham about Christmas had been appointed Keeper of the Great Seal. Sir Thomas Raymond says, he changed to the Court of Common Pleas at his own desire, "for that it is a place " though not so honourable, yet of more ease and plenty, as the Lord " Keeper said in his speech to Saunders." But it is probable that he was compelled to make the change in order that Sir Edmund Saunders might preside at the decision of the great Quo Warranto case against the City of London, in which he had drawn all the pleadings for the Crown. The Demurrer in that cause was filed in the same term, on the first day of which he took his seat as his successor; namely, (Hilary Term, 34 Car. 2.) 1683; he died in the next Trinity Term, 19th of June, 1683, and Sir George Jeffries succeeded him, and sat on the Bench in Michaelmas Term, 1683.

10. SIR FRANCIS PEMBERTON, made Chief Justice of the Common Pleas in Hilary Term, 1683, (35 Car. 2.) was removed in the long vacation of that year, and Sir Thomas Jones a Justice of the Court of King's Bench succeeded him, and sat in Court at the beginning of Michaelmas Term, 35 Car. 2. The removal of Sir Francis Pemberton has been supposed to be occasioned, by the honourable manner in which he had conducted himself, when presiding at the trial of Lord Russell on the 13th of July preceding, or, as Kennet says, by his not "being" able to go into all the new measures of the Court." His fate is rather singular, he filled three judicial offices, was removed from each, returned twice to practice at the bar, and died at last a puisne Serjeant.

T. Jones,  
p. 234.  
Compl. Hist.  
iii. p. 416.

11. SIR WILLIAM DOLBEN, a Justice of the King's Bench, was appointed in 1677, (29 Car. 2.) and received a supersedeas to his commission on the 20th of April, 1683, (35 Car. 2.) being succeeded by Sir Francis Wythens, who was sworn in on the first day of Easter Term, the 25th of April, in the same year. After the Revolution he was restored to his office. A message was sent from the Lords on the 19th of February, 1688, by Serjeant Dolben, so possibly he had returned to the bar.

T. Ray. p. 496.  
Show. ii. p. 283.  
Mod. iii. p. 253.  
Lords' Journ.  
xiv. p. 129.

12. THOMAS STREET, was made a Baron of the Exchequer in 1681, (33 Car. 2.) sworn in the 23rd, of April, and was discharged in 1684. He was succeeded by Sir Robert Wright, but appears to have been a Justice of the King's Bench in (T. 4 Jac. 2.) 1688.

T. Ray. p. 431.  
Mod. iii. p. 220.

#### In the reign of James the Second.

1. SIR CRESSWELL LEVINZ, was made a Justice of the Common Pleas in 1680, (Hil. 32 Car. 2.) and being removed in 1685, two days before the end of Hilary Term, (1 & 2 Jac. 2.) was succeeded by Sir Edward Lutwyche, as is said in 2 Shower. The removal was by supersedeas under the Great Seal, and he returned again to the bar, where he continued to practise so late, at least, as Trin. 8 Will. 3. and his reports down to that time are published.

Lev. ii. p. 257,  
260.  
Show. ii. p. 471.

2. WILLIAM GREGORY, made a Baron of the Exchequer in 1679. was removed in the beginning of 1685, (2 Jac. 2.) and on February

Comp. Hist.  
iii. p. 444.



Mod. iii. p. 253. the 13th his place was supplied by Sir Thomas Jenner. At the Revolution he was made a Justice of the King's Bench.

Skin. p. 251.  
Show. ii. p. 471.  
Mod. iii. p. 99.  
Comp. Hist.  
iii. p. 451.

3. SIR THOMAS JONES, made Chief Justice of the Common Pleas in 1683, (35 Car. 2.) was discharged the day before Easter Term in 1686, (2 Jac. 2.) and succeeded by Sir Henry Bedingfield. The cause of his removal was, notwithstanding the application of the King, his positively refusing to support the dispensing power of the Crown.

Show. ii. p. 471.  
Mod. iii. p. 99.

4. WILLIAM MONTAGUE, appointed Chief Baron of the Exchequer in 1676, (28 Car. 2.) was removed in Easter Term, 1686, (2 Jac. 2.) and succeeded by Sir Edward Atkyns one of the Barons of that Court. This removal was occasioned by his refusal to support the dispensing power.

Comp. Hist.  
iii. p. 391.  
Show. ii. p. 94.

5. SIR JOB CHARLTON, was Chief Justice and one of his Majesty's Council at Ludlow for the marches of Wales, with which he had a pension because he did not practice at the bar. Sir George Jeffryes being Recorder of London, and desirous to enjoy his place, prevailed upon him contrary to his inclination, to become one of the Justices of the Common Pleas in April, 1680, and then obtained the appointment with the same pension, though he still continued to practice, and to be Recorder of the City of London. This is one of the signal frauds in the public revenue mentioned by Lord Keeper North. Sir Job Charlton was removed in 1686 for resisting the dispensing power, but upon his petition was replaced in his former situation with a patent of precedence as he had been a Judge, and to wear a Judge's robe at Chester. He was succeeded according to 2 Shower's Reports by — Powell.

Dalr. Mem.  
App. to 1.  
Part. ii. p. 103.  
Mod. iii. p. 99.  
Show. ii. p. 471.

Show. ii. p. 434,  
466.  
Skin. p. 237.

6. SIR EDWARD NEVILL, was made a Baron of the Exchequer in the long vacation 1685, (1 Jac. 2.) and was removed in the Christmas vacation of 1686, for resisting the claim to the dispensing power, and was succeeded by Sir Thomas Jenner. At the Restoration he resumed his seat in that Court.

7. SIR EDWARD HERBERT, was made Chief Justice of the King's Bench in the long vacation of 1685, (1 Jac. 2.) and removed into the Common Pleas and made Chief Justice of that Court, on the 21st of April, 1687. (P. 3 Jac. 2.) The removal of this Judge, and Sir Francis Wythens from the same Bench, forms one of the most serious charges against James the Second. In prosecution of his arbitrary and bigotted designs, he had deemed it necessary to have a well disciplined standing army at his command, and for the purpose of keeping his soldiers in a state of strict subordination to their officers, and enforcing a prompt obedience to his commands, had determined to revive an obsolete statute\*, and a soldier of the name of Beale, (or Dale) was indicted for deserting, tried at Reading, convicted, sentenced to be hanged, and respited. The King was extremely anxious that the sentence should be put in execution at Plymouth, where the troops were in the garrison, to which the prisoner belonged, that his example might make a stronger impression upon the soldiers there, as well as upon the army in general. For this purpose the Attorney General on Saturday the 15th of April in Easter Term, 1687, moved in the Court of King's Bench, where Sir Edward Herbert presided, and Wythens, Powell, and Holloway were Justices, (all of whom, it is observable, were removed from that Bench within little more than a year afterwards) that execution should be awarded against the prisoner, and that he might be executed at Plymouth. The Chief Justice in some heat refused the motion, as irregular, the prisoner not being before the Court. The Attorney General then moved for and obtained a Habeas Corpus to bring up the prisoner, and on Tuesday the 18th of April it was moved again. The Chief Justice and Wythens were of opinion, that the law did not authorize the Court to make the order, for the prisoner could be executed only in the proper county where the trial and conviction was, or in Middlesex where the Court of King's Bench sat. The order being refused, the prisoner was committed to the prison of the King's

Show. ii. p. 434.  
Mod. iii. p. 125.  
Comb. p. 47.

Inst. iii. p. 86.  
Rep. vi. p. 27.  
Mod. Rep. iii.  
p. 124.  
Show. Rep. ii.  
p. 511.

\* The statute is not mentioned in either of the reports of the case, but the prosecution must have been founded upon either the 7 H. 7. c. 1. or the 3 H. 8. c. 5. See Co. Rep. vi. p. 27. 3 Instit. p. 86.

**Bench.** But James was determined to carry his point\*, and on the 20th of April, two days afterwards, Sir Francis Wythens was removed, and Sir Richard Allibone appointed in his room, and on the 21st, Sir Edward Herbert was obliged to change situations with Sir Robert Wright, who had been appointed Chief Justice of the Court of Common Pleas in the preceding Term. On that same day, so indecently anxious was the King, Sir Robert Wright took his seat as Chief Justice, Holloway and Powell Justices being also on the Bench, but Sir Richard Allibone not making his appearance, and the prisoner being again brought up, an order was granted for his execution at Plymouth, which was accordingly carried into effect.

Show. ii. 512.  
Comp. Hist.  
iii. p. 385, 469,  
557.

Wynn. p. 87.

8. **SIR FRANCIS WYTHENS** was made a Justice of the King's Bench in 1683; removed in 1687, (E. 3 Jac. 2.) on the 26th of April, for the same reason as Sir Edward Herbert, and succeeded by Sir Richard Allibone. He came on the next day to Westminster Hall, and practiced as a Serjeant. In the year 1680 he had been expelled the House of Commons, for preferring a petition to the King against the right of the people to petition, and was excepted out of the general act of indemnity after the Revolution.

Skin. p. 122.  
486.  
Mod. iii. p. 239.  
Comb. p. 95.

9. **SIR RICHARD HOLLOWAY** was appointed a Justice of the King's Bench in the long vacation in 1683, (35 Car. 2.) and removed in Trinity vacation, 1688, (4 Jac. 2.) for his honest conduct in the Trial of the seven bishops; and succeeded by Sir Thomas Powell, a Baron of the Exchequer.

\* The extreme anxiety of James about his army may be traced in a case, which occurred previously to that mentioned above. Browne was an Attorney, and being employed by one Corbet, had arrested a soldier without leave, and both of them had been committed to the custody of a messenger for so doing. They were brought into the King's Bench by *Habeas Corpus* in the Michaelmas Term, 2 Jac. 2. but the warrant being *under the hand of the King*, without any Seal, or mention of any officer it was held to be illegal, and they were discharged.—*Rose v. Browne*, and others, Show. Rep. ii. p. 484.



10. SIR JOHN POWELL was appointed one of the Justices of the King's Bench in 1687, and removed in Trinity vacation, 1688, for the same reason as Sir Richard Holloway; and was succeeded by Sir Robert Baldock. At the Revolution, he was made a Justice of the Common Pleas.

Comp. Hist.  
iii. p. 486.  
Mod.iii.p.239.  
Comb. p. 95.

11. SIR CHRISTOPHER MILTON was a Catholic, and appointed one of the Justices of the King's Bench in April, 1687; and in July, 1688, he had a writ of ease, for which the ostensible reason was his great age and infirmities; but they must have come upon him suddenly, for he was made a Baron of the Exchequer only in Easter term. 1 & 2 Jac. 2. He was removed in good company, with Holloway and Powell. Perhaps it might be thought that, however strong his wishes to serve the prerogative and further the royal cause, it might not be prudent to leave him the senior puisne Judge. He was succeeded by Sir Thomas Jenner, a Baron of the Exchequer.

Comp.Hist.iii.  
p. 468. 486.

Skin. p. 521.

12. SIR RICHARD HEATH was made a Serjeant in 1683; appointed one of the Barons of the Exchequer in April, 1686; and removed the 3d of November, 1688. He was succeeded by John Rotherham, whose call to be a Serjeant is no where recorded.

Comp.Hist.iii.  
p. 451. Beat-  
son's Pol. Ind.  
Wynne, p. 87.  
note.

13. CHARLES INGLEBY was a Catholic, and made a Baron of the Exchequer in Trinity vacation (4 Jac. 2.) 1688. He was removed November the 3d, in the same year; and the vacancy does not appear to have been filled up before James abdicated the throne.

Mod.iii.p.239.  
Beatson.

II. COPY of a LETTRE written by CHARLES the SECOND to the CHANCELLOR, concerning the EXECUTION of SIR HENRY VANE, with OBSERVATIONS.

NO single act of Charles the Second has left so foul a stain upon his memory, as his having sought the execution of Sir Henry Vane. He had not been one of the Judges of the late King, and therefore his life ought to have been spared according to the King's Declaration sent from Breda, and his confirmation of it afterwards in Parliament. But besides this, the Commons having shewn repugnance to except him out of the Act of Indemnity, the Lords through the medium of the Chancellor, who acted as their manager at a conference, had intimated that though on account of Vane being "of a mischievous activity," they desired to have him left to the mercy of the King, yet they would be ready to join with the Commons in a petition, that, in case he should be attainted, he should not be executed. Upon this intimation the Commons passed the bill, and it afterwards received the royal assent. Accordingly a petition from both houses was presented by the Chancellor to the King, reminding him of his declaration, and praying that if Vane and Lambert should be attainted, yet execution as to their lives might be remitted, and the King acceded to their request. When a new Parliament met, the Commons as Sir Henry Vane says, instigated by persons who wished for his estates, and by his own tenants, insisted upon indictments being presented against him, and he was brought to trial on the 6th of June 1661, and found guilty. From his trial having been postponed so long, and the backwardness of the Crown to bring it on, it may be inferred that the King would have been satisfied to have continued him in confinement, and had no wish to take away his life. Sir Henry Vane himself mentions an unfortunate circumstance which happened at his arraignment, four days before his trial, and made an impression to his disadvantage; he then used the expression "Sovereign power of Parliament," which he says, "Mr. Attorney General writ down, after he had promised at my request no exception should

Com. Journ.  
viii. p. 132,  
133.

Lords' Journ.  
xi. p. 163.

Com. Journ.  
viii. p. 368.

Stat. Tr. ii.  
p. 457, 458.

## APPENDIX. No. II.

XXV

“ be taken at words.” The ensuing letter was written by the King on the day after the trial, but whether after he had seen the Judges who tried him is not clear, for Sir Henry Vane who mentions the circumstance of their going to Hampton Court, makes use of an equivocal expression as to the time, saying it was “ after the day of my trial.” Charles, finding that Sir Henry Vane still persisted in his republican notions, feared his talents and his influence too much to permit him to exist. But, however valid such a justification may be for taking away life in the ethics of tyrants, the want of feeling with which he makes the detestable proposal to the Chancellor admits of no palliation. Here we find him, acting solely from the dictates of his own heart; ready and willing to break through the most solemn engagements, and desirous to shed blood unjustly for the better security of his power. Whether the Chancellor resisted the wish of the King, or gave way to it, or ultimately approved of it does not appear, but as he had upon other occasions insisted upon the strict performance of the declaration from Breda, and had himself proposed to the Commons the expedient of a petition to the King, we would hope that he did not give his sanction to this perfidious conduct. Sir Henry Vane was executed on the 14th day of June, and the House seem to have been satisfied with his fate, for we find no steps taken in his favour, or complaints made of the royal breach of faith. The Letter which makes the subject of this article was addressed to the Chancellor, and was as follows :—

*Hamton court, saturday two in the Afternoone.*

The relation that has been made to me of Sir H. Vane's carriage yesterday in the hall is the occasion of this letter, which if I am rightly informed was so insolent as to justify all he had done, acknowledging no supreme power in England but a Part: and many things to that purpose. You have had a true accounte of all, and if he has given new occasion to be hanged, certaynly he is too dangerous a man to lett live, if we can honestly put him out of the way, thinke of this and give me some accounte of it to morrow, till when I have no more to say to you.

C. R.



The beginning of the direction is torn off, but the words "the Chancellor," in the King's hand, remain. The Chancellor has indorsed "The King's," and two or three words illegible after. And Mr. West has made this indorsement, "This Letter was wrote by the King, 7 June, 1662, and that day seven night Sir Henry Vane "was be-headed. J. W."

English Royal Letters in the Lansdowne Collection, deposited in the British Museum, p. 125.

III. COPY of a LETTER of J. APRICE a ROMISH PRIEST, to Mr. WILLIAM  
LYNWOOD at his house in DEANE, NORTHAMPTONSHIRE.

Referred to at page 325.

DEAR BROTHER.

February 16, 1685.

THE great change which is made in our nation since last I writ to you, is the wonder of all men. If we consider that 'tis the divine providence that rules over kingdoms and the hearts of men, we shall the less wonder. Who could have say'd a while agoe, that these eyes of mine should have seen two Catholick Kings reign over us in this nation? But that same God that preserved our late King of blessed memory, by soe many wonderfull miracles all his life time, did alsoe at his death call him to his mercy, by making him to be reconciled to his holy church, which he did in this manner. The day hee fell ill, which was the Monday, he was noe sooner recovered of his fit, but his trusty loving brother, our now most gracious Souveraine fearing a relapse, putt him in mind of his soul: which advice hee immediately embraced, and desired noe time might be lost in the execution of itt. Whereuppon Mr. Huddleston was commanded to attend incessantly thereabouts, but the great affairs of the nation coming perpetually before them, time could not possibly be found till Thursday. But then the King finding his natural strength decay, commanded of his own accord all to retire out of the room, telling them he had something to communicate to his brother. Then Mr. Huddleston being brought in, that great work was done, and with that exactness, that there was nothing omitted either necessary or decent, and as Mr. Huddleston himself has told me, by a particular assistance of God's grace, the King was as ready and apt in making his confession and all other things, as iff he had been brought up a Catholic all his life time; and from that moment till eight of the clock the next day, att which time his speech left him, he was heard to say little, but begging Almighty God's pardon for all hie offences and the like, so that we may joyfully say, God have mercy of his soul, and make him eternally participant of his Kingdom of Heaven.

As for our present King, he dayly gives us by his actions new hopes of a great deal of future happiness; for besides the great content and subjection which seems to bee in every body here, wee in particular have reason to praise God for giving him so much courage and resolution to confess his faith publickly, which he did yesterday in a most eminent manner, for on Friday last he declared to the Councell, that hee was resolved too make known publickly to the world of what religion hee was; and yesterday hee came with the Queen to the Chappell, attended by all the Nobility and Gentry about Court, and there recived together with the Queene from the hands of her Almoner, the most precious body and blood of our Saviour, with as much devotion as ever I saw in any man, and heard, all the time upon his knees, tow long masses. This ceremony I saw, and will always esteem the day holy, wherein it was donn, for above this 126. years the like has not binn seen in England.

The Maior and Aldermen of London came on Saturday last, with an address to the King in name of the City, wherein they promise to stand by him with their lives and fortunes; which I hope will be a good example to all others to do the like.

This is all but my true love to my dear sister, and all yours from  
Dear Brother,

Your affectionate Brother and Servant

J. APRICE.

#### Note of the Bishop of Lincoln.

The original Letter is now in the hands of Mrs. Eyre of Stamford, and J. Aprice above mentioned was a Romish Priest and relation of hers; as also Mr. Lynwood, to whom the Letter was written.

Manuscripts in the British Museum, Vol. 4164, No. 39.



IV. ACCOUNT of the REBELLION of the DUKE of MONMOUTH in a  
LETTER to Dr. JAMES, from the REVEREND Mr. ANDREW PASCHALL  
of CHEDSEY in SOMERSETSHIRE.

Referred to at page 415.

THERE is reason to believe that we may impute it to the town of Taunton, that the rebellion did break out in these parts, and that we owe it to one tradesman in this place in a particular manner. His father before him there, was eminent for an unspotted and a persevering loyalty, throughout all the times of the great rebellion. He trod in his father's steps till perverted, about the year 1678.

Brit. Mus.  
Ayscough,  
No. 4162,  
No. 20.  
(Bp. Gibson's  
Papers, Vol.  
14.)

In the beginning of the year 1680, while seditiously promoting the petition he let fall words, for which he was indicted, fined and sentenced to imprisonment till he should pay the fine of £500. Not long after by the favour of a Parliament he was sent for up to London, when he found an opportunity of taking that liberty, which he could not obtain from the King, and so he fled into Holland. By the briskness of his air and the boldness of his spirit, and now by his sufferings, he became exceedingly endeared to the party, and under colour of being their factor for their serges, he served to the maintaining of the correspondence held between the malcontents abroad, and their friends here at home. This man got into the affections of the Duke of Monmouth, and came over with him to Lyme where he lost his life. This accident went very near to the Duke, and was looked upon as ominous. Some said, that the Duke never cast off the sadness, which he contracted on this occasion. And perhaps, all things considered, he could not have had a greater loss, in the death of any one man, than he suffered by this person's being killed so soon after his landing, because of his interest in the party, his knowledge of the country, and his industry and resolution in whatever he undertook.

Before our troubles came on, we had some such signs as used to be deemed forerunners of such things. In May 1680, here was that

monstrous birth at Ill-Browsers, a parish in this county, which at that time was much taken notice of. Two female children joined in their bodies from the breast downwards. They were born May the 19th, and christened by the names of Aquilla and Priscilla. May the 29th, I saw them well and likely to live. About the same time, reports went of divers others in the inferior sorts of animals both the oviparous, and the viviparous kinds. But perhaps many of these, and other odd things then talked of, owed, if not their being, yet their dress to superstition and fancy.—In the January following, Monday the 3rd, about seven in the morning, we had an earthquake, which I myself felt here. It came with a whizzing gust of wind from the west end of my house, which it shook. This motion was observed in Bridgwater, Taunton, Wells, and other places, and near some caverns in Mendip Hills, and was said to be accompanied with thundering noises. In the end of the year 1684, December the 21st, were seen from this place at the sun-rising, Parhelii, and this when, in a clear, sharp, frosty morning, there were no clouds to make the reflection. It was probably from the thickness of the atmosphere. The place of the light which was in the following summer, was near a line drawn from the eyes of the spectator to these mock-suns.

We had many indications and forewarnings of what ensued among us, as the time drew near, but those were of another kind. Not to stay upon particulars, I remember that in this private place from many observations made, I saw cause to write in haste June the 1st, 1685, to a person in an eminent station, and who, I thought, might have ready access to the King to represent to him my apprehensions, and to intreat him to beseech his Majesty to cast an eye this way.

To pass over the Duke's landing at Lyme, June 11, with 82 men, whom the report of them next day coming to us made to be 10,000, as also the carriage of the Militias, first in Dorset, which might easily have crushed the serpent in the egg, but did indeed give them reputation as if very formidable. Next in Devon, which, with their thousand of well armed should have done more than face that raw rout of

not many hundreds at Axminster. Lastly in Somerset, where the Militiamen did too soon shift for themselves, and leave the country open ; so that, by Thursday, June 18, they entered Taunton in triumph, with an army of 3,000, and Bridgwater on Sunday, June 21, with 5,000 ; from whence the next day they marched to Glasson, declaring with great assurance, taken from their sudden growth into this bulk, that God was with them, and that by the Saturday following they would be in London, and place their new King in his throne. I say, to pass these things over,—that about which I am most willing to refresh your memory is, what fell out next in this part of our country, which by being present I had opportunity to observe, and of which others may not have taken so much notice.

On Tuesday, June 23, a rumour of many men landing upon the Severn coast toward Bristol gave us an alarm. By this and their fresh observation of the Rebels making very bold, as they did the day before, with their provisions in their houses, and their horses in the commons, the countrymen were disposed to meet together, in order to the making up of a club army, that so as occasion should call, they might stand together for their mutual defence. Two persons were desired to ride presently from this place toward that where the invasion was said to be, that they might learn and inform their neighbours of the truth. These brought back word that there were a considerable number of club men met upon the hill, but they were about to go home, for that it appeared, that that which made all the noise, was nothing but a few men coming ashore out of a Bristol vessel. And, indeed, their business was only to cruise upon the coast and to get intelligence ; for which purpose they were sent from the city. Upon this news all grew quiet with us, hoping that the storm was gone from us, and would trouble us no more. But a Quaker, a cunning and busy fellow, who was at this club-meeting on the said Tuesday, seeing how easily the people were now to be into motion, rides from thence immediately to the camp at Glassen, tells the Duke all the country was rising for him, desires a commission from him, not doubting but that he should raise suddenly thousands for his service. The Quaker was not looked upon as a person fit to be trusted with the



formality of a command, but they who were about the Duke being willing to lay hold upon any thing that promised the least advantage to their design, a paper was drawn up in the name of their King, in which this infant and short-lived Majesty approved of their doings, &c. The Quaker intrusted herewith, returns in the afternoon, and all night sends his agents to as many places as they could reach, to assure the people that the news of the invasion was most certainly true, that we were in extreme danger of having all our throats cut, and to exhort all to meet again next morning, that they might consult and join together for their common safety. This second alarm reached this place, and raised us up out of our beds, Wednesday morning, June 24, before sun rising. Observing that some of our meanest people met together, talked insolently, and in a menacing way demanded my two men, who were young and stout men, to go along with them to the hill; I went with tender relatives into the neighbouring town, taking my two men with me. Soon after I was gone, the people of this place marched in a body of about 80 persons, young and old, with their club arms, to the Quaker's rendezvous. A friend of theirs, when he heard what they were doing, sent a man after them to advise them to return home, and to take heed that they do nothing against their allegiance. They answered, that they would go on to the meeting to see how things were, but would remember their duty. When I came home at night I found them returned. They told me the names of the prime agitators there; which confirmed me in the supposition which I had before, that the thing was managed craftily to draw the country in to take part with the Duke. They informed me, that the Quaker had procured, and that another person whom I knew to be an ill man, had read to them the above-mentioned paper; and that this paper\* did offer himself to lead them on against the Duke of Albemarle, then at Taunton, ten or eleven miles off from them, with the Devonshire militia. The people told me that they had there openly declared against this, and so did take a final leave of them and their meetings. The club men also parted, but with resolutions and agreements to meet again, as they did several times before the Duke's return to his overthrow. One whom I knew, finding things to be thus, did the next day, Thursday, June 26, send

\* Sic Orig.

a messenger over to Taunton, on purpose, with a letter to one of the militia Colonels, whom he knew, then with the Duke of Albemarle, to let him know what was doing here. He hoped this might occasion the Duke of Albemarle's coming with his forces on to Bridgwater, which would have dashed the club design, and so have prevented the temptation which the Duke of Monmouth had from thence to come back. But the Duke of Albemarle being sent for back to Exeter, went thither. The above-mentioned Colonel called at my house, Friday, where he had the copy of the above-said commission to the club men, that he soon after presented to the King. Before he came hither, he had the same day, June 26, sent a troop of horse to take up the person who read the commission, and offered to lead the club men against the Duke of Albemarle, as also the above-said Quaker. That troop met the former, who was committed to prison to the great regret of the rebel's army. But they missed the Quaker, who from this time, as vexed for his comrade and sensible of his own danger, increased his diligence in factoring with the Duke of Monmouth, and for him in the club design. He rides to the Duke, and persuades him that he has great numbers in readiness for him. He comes back to the club men, and puts them on with all possible earnestness to do their utmost. When the Duke was returning, he drove in divers countrymen to him, by telling them, that if they did not join they would most certainly be undone.

Saturday, June 27, we heard by deserters, of the difficulties which their companions in the rebel army laboured under in their motions eastward; when we began to be in pain, as thinking it possible that they might return to their old quarters, the country being left open as it was, and the club men being ready to receive and join them.

Monday, June 29, I persuaded my relatives to go with me into the town of Bridgwater, to divert them from those melancholy thoughts, which the rebels' rudeness when here, and the present cloudy face of things had so disposed \* them in this private place, that they could \* Sic Orig.

not sleep quietly at home. While here, we found three militia Captains, with their rallied companies again shewing their heads.

On Tuesday, June 30, they, the said Captains sent a messenger with a letter to the club men, that day met together. The purport of it was to inquire after the cause of them so assembling, and to require them in the King's name to repair to their several homes. The messenger brought back word, that among those people he could meet with no head of them to give him an answer. But he understood from some of them, that the Duke was expected back into Sedgmoor the next day; and that they were resolved to meet him there. At the same time I was informed, by two of my neighbours and brethren that came into the town, as for their lives, that the above-said Quaker came from the Duke with a party of about 16 horse; had been in their parishes, and had taken up some, and had been seeking to make them prisoners; and that he, the Quaker, was going farther to adjust matters with the club men. Thereupon, I sent a servant over the hill to one of the houses where the Quaker and his party had been, to know the truth. He brought word, that the Duke and his army was certainly returning, and would be speedily in Bridgwater. Upon this the town was in a hurry. I rode with my charge and friends as far as I could westward. The militia soldiers, at first, went about to fortify the town, as if they meant to keep it against the Duke; but it was not long before they left it open to him, and followed us in our western progress. While we were upon the borders of Devon, hiding and shifting as well as we could, we learned that, Saturday, July 4, the above-mentioned Bristol vessel, with another cruising on the coast, and landing some men as they had done nearer our home, occasioned such an alarm there as had been with us, and that hundreds of the country people were running together, made to believe that no less than 8000 French, &c. were landed; till messengers, sent about on purpose, did assure them that the report was not true.

Sunday, July 5, a party of about 80 or 100 horse came, not far from us, to Dunster and Minehead, from Bridgwater to fetch horses and



arms, and the guns that lay upon the Kay at Minehead. We, hearing of their motions so near, and finding how the temper of the country was generally favouring the rebels, rode up to Honiton, where we met the good news given that morning in this place.

The next day we through danger rode safe home, where, using my best diligence to learn the truth of that great and important action, which by God's infinite mercy and blessing did put an end to that rebellion, I attained that notion of it, which I think to be pretty near the truth, and which I am in the next place to present you withall.

His Majesty's proclamation of pardon, to such as should within the prefixed time lay down their arms, came forth while the Duke of Monmouth was in the eastern part of the country; at Frome, I think. Upon this, divers of his chief men met to advise about what might be best for them to do. The result was, that seeing they could make nothing of their enterprize, they would persuade the Duke to go to some port, and take ship, and endeavour to save himself for a more favourable time, and leave all the army to take the benefit of the pardon offered to them. They repair to the Duke with this issue of their consultation. He is said to have been more heartily pleased with this motion, than with any thing that had happened to him since he left Lyme. But there were about him who overruled the business the other way; and resolutions being taken up to go on, all care was taken to hide the pardon from the multitude, and now they are upon their return westward.

The club men were appointed, as was said, to meet the Duke, Wednesday, July 1, in Sedgmoor. Many were there expecting him many hours before he came. Late that day he came and encamped in Pedwell Plain, a place toward the easterly and upper part of that moor. When there, some persons, members of the corporation, were sent to him from Taunton, to desire him that he would not bring his army back again thither, (which they feared about to do\*) for that their town would be utterly ruined, as being exceedingly impoverished already.

\* Sic Orig.

The Duke is said to have replied, " They had done well not to desire " me to come from Lyme to them." One of them who came with this address is reported to have brought with him a copy of the King's proclamation of pardon, and to have so made it known among the soldiers, that the next morning, when they were called over, there were found to be a thousand of their men wanting. The Duke inquiring into the reason, and hearing how it came to pass, a party of horse was sent to Taunton to take up that person; who, being brought to Bridgwater, a prisoner, was threatened with death for his offence in publishing the proclamation. He was carried into the fight to take the fortune of war there; but met an opportunity of getting his liberty, and so made his escape.

On Thursday, July 2, the rebels marched into Bridgwater. It is said, that the Duke left his army to be led by the Lord Grey, and that himself giving it as a mark of particular kindness, did lead the club men. It was well for one, who was reported to have procured the troop of horse for taking up the Quaker and his companions mentioned above, that he was not at home and in their way. For some of their eminent men, who knew, used all their skill to learn where he was; one would give 40 guineas, pretending a desire to save him from danger; another, offered a troop of horse to guard him if he could be found out; so every common soldier passing through the parish, asked his neighbour where he was, and made proffers of five pounds to any that would discover him. And Friday, July 3, in the evening, the Duke himself sent a party of 30 or 40 horse to take him and his man up. These made a diligent search in every corner of his house for him. I mention this the rather, for it is an evidence that their minds were very much intent upon this club design, for otherwise it is not likely that they could have been so much concerned about one, whom they thought to have acted to their prejudice therein.

When come into Bridgwater, their first thought seems to have been for fortifying of the town; for which purpose, divers hundreds of labouring men were summoned in out of the country to begin a work.

But the chief men of the Duke's friends in the town, represented to him that they had not provisions for a siege, and that it would be easy for the King's army to fire the place, and therefore they desired the Duke to leave the town, and so save it from ruin. The labourers are presently neglected, and permitted to go home. And now, probably, they took up the resolution of marching toward Bristol, which (though they amused the people with an opinion as if they intended to move toward Taunton, or nearer the coast westward,) it is, I think, certain they were resolved upon Friday, July 3.

Upon Sunday, July 5, the King's army, consisting of about 4000 men, marched from Somerton. About noon they encamped in Zog, in the parish of Chedsey under Weston, 2000 foot, in five regiments, lodge in the camp; 500 horse quarter in Weston; 1500 militia men took up their quarters in Middlesoy, Othery, &c. a mile or two distant from Weston. One of the parish of Bridgwater being in the moor to look after his cattle, saw their coming and manner of incamping, goes into the town to the Duke, tells him all that he had seen, informs him of the way to the camp through North Moor, and was rewarded by the Duke with a guinea for his pains. The Duke forthwith goes up to the church tower, views all lying open to him there with a perspective glass. Coming down, he calls a council of war, in which it was agreed upon to assault the King's camp. The news of this flew among the Duke's friends, insomuch, that at a place 12 or 14 miles from Bridgwater, where had been risings of club men and meetings, one of them calls to the people coming out of church after evening service that very afternoon, with all speed to hasten to the Duke's assistance; for he had the King's army in a pinfold, under Weston; adding that if they should not make haste, they would certainly slip away from them. That evening, between nine and ten of the clock, the Duke leads his army out of Bridgwater with great silence. He did not take the nearest way to Weston, which was three miles in length, by which he went, June 22, and returned July 2, but he took the long causey, and so made his march near five miles long before he could reach the King's camp. He left the way by that short causey through Chedsey,



though that was nearer and much more commodious, probably to avoid the danger of being discovered. For though he might possibly expect at first as much assistance from Chedsey as the people were able to give him, particular notice was taken that not one person went thence first to last into his army. Hence, it is likely, he might fall into a diffidence as to this place. His advantage must needs have been much greater if he could have confided in the inhabitants there, so as to have gone through their street. Avoiding them, therefore, who knew, generally, nothing of his march, he went by Bradney Lane; which lane he also soon left, probably that he might not come too near to a loyal man's house at the end of that lane, where it turns into the moor, so by Marsh Lane, which was further about, and less commodious, he led the army much incumbered, and retarded by the narrowness of the lanes into the North Moor.

As for the King's army, care was taken, and great diligence used upon their encamping, to set guards and centinels, not only in the common road from Weston to Bridgwater, and in several ways and lanes on that side of Chedsey, (by which was the nearest passage from Bridgwater through Chedsey and Weston,) but also in that very way round about by which the enemy did march. There were also two, and perhaps more, considerable parties of horse sent out in the afternoon from the King's camp to scout that way, though it be somewhat difficult to explain, how it was possible for one of those parties especially to miss the discovering of the enemy, as they were coming from the long causeway through the lanes into the moor. A trumpeter is said to have been sent into the town to challenge them forth to fight, or in case they refused, to threaten them with firing the town about their ears the next morning. But then it must be confessed, that though informations were brought to the camp, that the Duke would come forth that night to visit them, and was actually preparing so to do, yet the above-mentioned guards and centinels were all gone from their several posts before bed-time, which all the country people saw and affirm to be true. The guards on the south side of Chedsey retired to the camp. The horse guard, of about 12 or 16, at Lang-

moor Stone, accompanied that party of horse which went through North Moor into Baudrip. And now the camp was all quiet and at rest, as believing no danger near. Only Captain Mackintosh, in the Scots regiment, believed over night, and would have ventured wagers upon it, that the Duke would come. He, in that persuasion, marked out the ground between the tents and the ditch, where his men should stand in case of an attack, and gave directions that all should be readiness; and it was well he did so; for his regiment being in the right wing was to receive the first assault and main shock, which to give them their due they did with great courage, as also did the rest of those valiant men. The occasion of this seeming error of those brave men seems to have been this: There was among them throughout the King's army, a persuasion that the rebels, who had always been shifting from them, would then steal away to Taunton, or Bristol, and seeing they accepted not the challenge to fight that Sunday, when the day was over, there could be no action till next morning, against which time it was seasonable to refresh themselves, wearied with that day's march. Parties of horse being abroad to scout, and a watch of eight men set in Chedsey Street, to give notice if the enemy should come that way, all was judged secure on that side. And the most necessary guard at Langmoor Stone might be thought was left there, seeing the party of horse, which took that guard along with them, were going to meet whatever danger might be coming that way. So it fell out, by the Divine Providence ordering it, that the rebels thus had a great temptation to draw them into this adventure as into a snare, and were as near to an entire victory as men could well be and miss it. That so it might be seen, that in truth God was not theirs, as they had boasted, nor did then stand neuter.

To return to the Duke's army which we left in North Moor, they had placed 42 waggons in the ascent of Bulden Hill in Bristol road, with orders to drive on to Axbridge. They bring with them now three great guns, and march with great silence. The Lord Grey led the horse, supposed to be about 800. When they were come to Langmoor Side or near it, a pistol was discharged, Captain Hacker

is said to have owned it at his trial, as done by him to give the King's army notice of their danger near. Presently a trooper, unknown, rode from them full speed as is supposed, because seen to come that way from the camp. He, standing on the outside of the ditch, called with all possible earnestness to the Scots regiment to beat up their drums, and tells them the enemy was come, and having repeated 20 times at least, as loud as he could, rides back the same way he came. It was this person, and not the pistol, which gave the alarm.

Now the camp awakes, runs to arms, gets into as good order as they may, and stands ready to receive the enemy. The horse, which the Lord Grey led marched towards the upper Plungeon. Missing that passage over the ditch he leads them on the outside, till they come to the Scots regiment, by which 500 of these horse pass, pretending that they were friends, and came from the Duke of Albemarle. At length they are discovered by the other regiments and fired at. They then wheel off, had a skirmish with their own men, and go back by Langmoor Stone, and thus discouraging the rest of their own army fled. Sir Francis Compton stood with a guard at the upper Plungeon. One Jones was commanded with a party of horse to beat him from that passage. He played his part with so much valour, that for the same he was thought not unworthy of a pardon from the General. But Sir Francis, though hard beset and wounded yet kept his post so well, that the rebels horse behind, said to be 300, went backward on the outside of the ditch toward Sutton Mill, near which they took up their station to see the issue of the fight. When it appeared how things went, they shifted for themselves. Whether Sir Francis were there before the 500 horse missing their way went down toward the camp, or came to the Plungeon afterwards, and so had his encounter with Jones as belonging to the latter 300 horse we do not know. To be sure that worthy gentleman did great service, for had the horse gone over there, notwithstanding the alarm, all might have been lost. It was not above half a quarter of an hour, before the foot continuing their march



appear to the Scots, first in three bodies, then the third lesser body joins with one of the other two. Of these there were 2000 of their prime, and principally Taunton men, led by Wade. By these the fight was managed. The King's soldiers gave them the commendation of stout men, 2000 more, among whom were 1000 scythe men, stood at a distance between Lang Moor Stone and them. These 2000 came not to the fight. Many are said to have been behind them, who being hindered by the lanes, through which they marched could not come up, before they met cause to run with their fellows. The fight continued not much above half an hour. It is said that victory seemed to be inclined to the rebels, and that the King's army was almost in despair. We are next to give an account of the following happy alteration.

The Duke of Monmouth and his company gave divers manifest tokens that they were disheartened, though a good face was put on to animate their friends to hurry the multitude to their assistance. Many things concurred to this discouraging of him. They had met disappointments at sea, as to the time of their landing, by which they missed several considerable advantages. They were sensible of a great loss in Mr. Dare's being killed at Lyme, for no man had so great an influence upon the Duke's friends in Taunton, as he. Informations were sent to his Majesty time enough to raise the militias, and to send the Tangier and other forces against them, so soon, as proved much to their prejudice. The Taunton men falling short of their promises, as to men, money, and arms, by which promises they had done their part to tempt him over, and draw him in, was not pleasing to the Duke. He is reported to have expostulated with them about it when there. His taking upon himself the title of King as he did, June the 20th at Taunton, a thing besides his pretences in his printed declaration, was very displeasing to some of the most active of his complices. After this, some were heard to complain that now they had made him a King, he was grown unwieldy and ungovernable. And there were who scrupled not to own it, that they had fought against three Kings, but did not doubt that they should too against this fourth. They were

troubled that greater men did not shew themselves, who it was thought were so cautious and wise, as to stand behind the curtain to wait and see what the rabble could make of the business, before they would venture to appear openly. Some of the Duke's grantees were overheard, when he was first in Bridgewater, speaking to this purpose in his presence, "We wonder the gentlemen come not in. Well we will do the work without them, and then we will have their estates too." That they had heard no tidings of any insurrection in any other places of the kingdom, this was besides a sad disappointment of their hopes. They took it ill that the Clergy did not yield to any motions nor close with any incitations, though some of them were earnestly solicited and courted, with very high promises of favour and preferment. They felt a scarcity of (not men such as they were, but) provisions, and ammunition. They went with great expectations and confidence eastward, but met at the same time ill success in their own affairs, and to them ill news of Argyle's defeat in Scotland. They were uneasy at the happy union and agreement between the King, and his Parliament. The proclamation of pardon coming in, as it did, softened many into more yielding dispositions than they were, which they began withall, and abated in them the courage, that is in men who are desperate. The towns of Taunton and Bridgewater were not desirous of their company a second time, and the latter was soon weary of them. The club men did not appear so considerable, as the Quaker had pretended they would do, and as probably they might have done had the Duke, according to his first intention, marched through their country for Bristol upon the approach of the King's army. The Duke was observed under a constant cloud of melancholy, and was heard often to express his despair of ever doing any thing with such men as those were, which he had about him. It is said that the Quaker, noting it once at Glastonbury, took the boldness to clap him on the shoulder, and calling him by his name bid him be of good heart, for he had so many thousands, meaning the club men to fight for him. Some observed, that there were, as they judged, a thousand women come into Bridgewater, before the fight, (for the news that it would be was spread on that

side) to take their leave of husbands, and other relations in the rebellion, who were thought not to have added, however zealous for the cause, to their courage. When they were resolved on fighting, Sunday afternoon, they gave the soldiers to drink plentifully of the plundered liquors, and many came forth half drunk. But the valour, which this gave them might easily evaporate, in the time they spent in their march in so long a way, and such narrow lanes. It is conceived that all these things might contribute more remotely to the preparing of such a company for such a rout, as theirs was, when there should be occasion.

But to come nearer, the 2000 foot which made the assault were first commanded to run over the ditch. This was as is likely, upon a presumption that the horse, going over the Plungeon, and so into Weston, would have given the alarm behind the King's camp. Accordingly they marched in\* the Moor with a persuasion that the King's army was running. So Wade is said to have told his men they were; silence they would have broken, though commanded silence, and shouted, had not he, doubting their circumstances, restrained them. But when these foot were come to the ditch, things were found to be otherwise than they hoped, and they were commanded pain of death not to go over. And this might easily put them into some confusion and consternation. It is also said, that the Duke left them fighting upon a rooted distrust that he had of their sufficiency against the King's soldiers, whom he very well knew; and that being asked to return to the said foot fighting to encourage them, he said, "All the world cannot stop those fellows, they will run presently," as the failing of the horse in their design might have an ill effect upon the foot in the front, so their running irreclaimably away at the beginning kept the foot in the rear from coming up, and occasioned many of their running, while the others were fighting.

Things being thus, the immediate cause of the rout was this. Upon the alarm the King's horse, said to be 500 quartered in Weston, got up, made ready their horses, and mounted as soon as they may, and



get together, and as is said, designing to go to the camp and fight, miss their way, and ride into Weston town, out of which they pass into the Moor by the road-way leading to Bridgewater, and now they are in the outside of the ditch. By this time three of the King's guns are drawn from the place where they stood altogether, and planted on the inside of the ditch, between it and the tents. These, being fired, made lanes among the rebels, and at the same time with great courage and fury the King's horse break in upon them. This was presently followed with a total rout of the rebels, running every way, and leaving to the King's army an intire victory.

*The Duke of Monmouth's Commission, procured by the Quaker, and published at the meeting of the Club men, on Pealden Hill Wednesday June, 24, 1685.*

James. R.

WHEREAS we are given to understand that our faithful and loyal subjects, in and about Brent Down and Uphill, and other places adjacent in our County of Somerset, have taken arms, and in defence of our person and of the righteous cause we are engaged in, we could not but in a particular manner take notice of their affection and commend their zeal, which they have given such early marks of against popery and tyranny. And therefore we do hereby justify, and allow whatsoever they have already acted on our behalf. And further we do authorize them or any of them, and by these presents give them our royal warrant and commission to arm themselves in the best manner they can, and to disarm, seize, take, prosecute, and kill, and with force and arms subdue all manner of person and persons, that shall appear in arms for James Duke of York, the Usurper, or that shall act by any authority derived, or pretended to be derived from him. And persons \* whatsoever, whether French or Irish, papists or others, that shall land upon the coast, and in a more particular manner to prosecute, subdue, and kill Christopher Duke of Albemarle,

\* Sic Orig.

and his adherents, whom we have already declared rebels and traitors. And we do hereby likewise authorize, and require all our loving subjects, in all other parts and places upon the coast in the said County\* \* See Orig. of Somerset and Devon, toward the said coast which will otherwise be speedily invaded by French and Irish papists, sent for over, and called in to that purpose; which will be to the utter ruin and devastation of our kingdom, and all our loving subjects. Dated at our camp at Glastonbury, the 23rd of June, 1685, the first year of our reign.

A Copy of a Warrant for Scythes.

James. R.

THESE are in his Majesty's name to will and require you, on sight hereof, to search for, seize, and take all such scythes, as can be found in your tything, paying a reasonable price for the same, and bring them to my house to morrow by one of the clock in the afternoon, that they may be delivered in to the commission officers, that are appointed to receive them at Taunton by four of the same day, and you shall be reimbursed by me what the scythes are worth. And hereof fail not, as you will answer the contrary. Given under my hand this 20th day of June, in the first year of his Majesty's reign. To the Tithing man of Ch\*.

\* Probably Chedsey.

V. DEFENCE of the VERACITY of BISHOP BURNET in his STATEMENTS  
of FACTS and CIRCUMSTANCES.

*Referred to at Page 88.*

Rose, p. 15.

BISHOP BURNET's History of his Own Times has put his readers into possession of so many interesting facts, and has discovered so much of the secret history of the government in his day, and he has done it in a stile so easy and familiar, that there is perhaps no historical work in our language, which has afforded so much instruction and entertainment. There is none which is read with greater avidity by persons of all ages. Mr. Rose has, for some reason or other, taken a dislike to the Bishop, and has attacked him, but it must be acknowledged, openly and boldly. He appeals to his own experience for the little reliance which is to be had upon his single authority, and has collected such evidence as he could *immediately* meet with to support the opinion he has very long entertained. This evidence is printed in the Appendix to his work, and upon examination will turn out to be directly the reverse of what Mr. Rose has supposed, and will prove distinctly, that the single authority of the Bishop may be in general safely relied upon.

Higgon's  
Short View,  
p. 201.

As evidence upon this subject, it cannot be presumed that Mr. Rose means to offer the virulent abuse of that most scurrilous of all authors, Bevill Higgon's.\* He was a staunch Jacobite, and had persuaded himself, that the Stuart family was "the most virtuous race that ever sat on the throne of England;" and his remarks on Bishop Burnet's history, which are cited by Mr. Rose with complacency and approbation, contain much railing, but few facts and little argument. Of his stile of writing the reader may form a tolerably fair opinion, from the specimens preserved in Mr. Rose's Appendix, but he will not find stated

\* By way of manifesting the accuracy of Mr. Rose, it may be remarked, that he cites Higgon's works, in 2 volumes, 8vo. which he says are filled with comments on Burnet's mis-statements, &c. but it happens that one volume only is occupied in that manner.



there the detection of a single inaccuracy in Burnet's history. A further reference to the book itself would not be very satisfactory; for the instances in which the Bishop's relation of facts is controverted, are neither numerous nor material, and in some of them Higgons has been mistaken, and proved to have been incorrect.

We shall not detain the reader with remarks upon a fulsome dedication written by Burnet in the year 1670, immediately after his first introduction to the Duke of Lauderdale, which Mr. Rose has contrasted with the character given by him of the Duke at a later period of his life.\*

It is quite wonderful that Mr. Rose, who has so feelingly described the powerful bias, which men connected with party must feel, should call to his assistance in the attack upon Bishop Burnet those only, upon whose minds these political principles and connections had operated with uncommon violence. He conceives Mr. Fox to have felt it strongly without knowing it; and can he conceive that Beville Higgons, that the first Earl of Dartmouth, or that Lord Lansdowne, did not feel it also? It is perceived in every page of Higgons's remarks, and with respect to the Earl of Dartmouth, who Mr. Rose again by mistake calls the *second* Earl, it is curious to see the manner in which Mr. Rose has made his notes on the margin of the Bishop's History bear upon the question. First of all, not a single fact has been selected from them to shew that Burnet has been inaccurate. Next, it must be recollected, that the first volume of Burnet, which only comes down to the end of James the Second's reign, was published in 1725, and the second did not come out till 1734. The second volume reaches to 1713, and of course comprises the history of the Whig administration in the be-

\* Mr. Rose is incorrect again; speaking of this character he says, "which he did not, however, publish till after the Revolution." The Bishop did not live to publish the History of his Own Times; the first volume appeared in 1725, but he died in 1715.

ginning of Queen Ann's reign, of its overthrow, and of the establishment of the Tory administration under Harley, which was projected, and partly carried into effect in 1710, and perfected in 1711. In this last administration, Lord Dartmouth took a part, for he was made a Secretary of State in 1710, an Earl in 1711, and, in 1713, Lord Privy Seal. We may presume that this noble Lord believed what he wrote in page 3 of the first volume, "I do not think he designedly wrote any thing he believed to be false." And we must not forget that a great number of circumstances narrated in that volume, particularly those about the time of the Revolution, must have fallen within his own knowledge, or been fresh in his recollection. As a further proof of his approbation, his name does not appear in the list of subscribers prefixed to the first volume, but is found in that prefixed to the second, notwithstanding nine years had elapsed between the publication of the volumes, and he had had full time to have informed himself of the truth of those facts contained in the first, which had not fallen within his own observation. Unfortunately, Burnet in the second volume, made free with the administration just mentioned, and we may take for granted, had stated some things as facts, which the Earl of Dartmouth conscientiously believed not to be true; for in a note at the foot of the subscription list, he recanted what he had written in the former volume, and wrote, that he was "fully satisfied that he published many things that he knew to be so." (i. e. false.) The spirit in which this note was penned cannot be mistaken. But if there could be a doubt, a reference to two other notes cited by Mr. Rose would remove it. I mean the note of the Earl of Dartmouth upon that passage in Burnet, which describes a pamphlet, entitled, the Conduct of the Allies and of the late Ministry, to be "written with much art, but no regard to truth," and the final note, with which the Earl's remarks are concluded. That his opinion respecting Burnet was changed, between the publication of the two volumes of the History, is manifest. But there was a time when he thought the first volume to be written with an honest intention; and whatever might be the true character of the second it is not clear that he ever changed the opinion he originally recorded concerning the first.

Mr. Rose then presses into the service Lord Lansdowne, who was also one of the Tory ministry formed after Sacheverell's trial, held the office of Treasurer of the Household, and was made a peer in 1711. He treats Bishop Burnet with some apparent delicacy, but insinuates that he would not scruple to assert a positive falsehood, and attacks the history as being "little else but such a one told such a one, and such a one told me;" and concludes with one observation "upon the most important hearsay in his whole work, upon the credit of which the rest may depend." The hearsay alluded to is, that "His Lordship (i. e. the Bishop) had it from Mr. Henley, who had it from the Dutchess of Portsmouth, that King Charles the Second was poisoned." This proposition consists of two parts; first, that the Dutchess of Portsmouth told Mr. Henley, and second, that Mr. Henley told the Bishop; and either of them admits of contradiction. The reader would naturally expect from the purpose, for which Mr. Rose has introduced this story, and the comment, with which Lord Lansdowne has accompanied the relation of it, that he had been able to shew the Bishop had made a wilful misrepresentation of one, or both of the before-mentioned particulars. But it is not disputed that Mr. Henley told the story to the Bishop; and the story is attempted to be discredited, not even by confronting one hearsay story directly against another, but the production of a hearsay story, which has little relation to the point in question. For this noble Lord, who says, that "this sort of testimony is heard in no case," employed a person, whose name is not mentioned, to apply to the Dutchess about the truth of the passage. Now how the testimony of this anonymous person of what he heard the Dutchess say, is more to be relied upon, than what Mr. Henley, who is asserted by Burnet to be a respectable gentleman, and not denied to be so either by Lord Lansdowne, or Mr. Rose, heard her say, is utterly incomprehensible. In like manner, Mr. Rose quotes against the Bishop what Mr. Francis Gwynn, secretary at war under the Harleian administration, told Lord Dartmouth, the Dutchess of Monmouth had told him; and what Mr. Secretary Johnston told the same Lord, Bishop Burnet himself had said to him. If this species of evidence may be received against a man, it would be unjust to reject it when tendered for him; and Mr. Rose cannot, if he has any regard for consistency,



be severe upon the Bishop for admitting such testimony, when he himself relies upon it, and in his Introduction cites what Lord Bolingbroke told Lord Marchmont, and Lord Marchmont told him, concerning some very important facts. But to return, the objection of Lord Lansdowne is to the nature of the evidence in general, not to the particular witness; and it was ingeniously contrived by him, and the instance selected with great judgment by Mr. Rose, that the contradiction should be authenticated only by evidence, which they both contend cannot be received at all. But the answer reported by the anonymous friend of Lord Lansdowne, when examined, is no contradiction of what the Bishop wrote. The passage in question was found, after his death, added on a loose paper to the History of his Own Times, and purports only to relate what Mr. Henley told him. If Mr. Henley had deceived him, the character of the Bishop must have remained unaffected, even though the Dutchess had expressly denied she had made the communication to Mr. Henley. But when applied to, she does not say positively she is not acquainted with Mr. Henley; nor does she deny that she had said to him that Charles the Second was poisoned, but contents herself with answering, that "she recollected no acquaintance with Mr. Henley." She then goes off into the most violent abuse of the Bishop, saying, "the King, and the Duke, and the whole court looked upon him as the greatest liar upon the face of the earth; and there was no believing one word that he said." The terms she used to convey this opinion of Bishop Burnet's veracity were not very delicate, but we may presume she was very angry, and that the King, and the Duke, and the whole court were very angry also, or they would not have formed such an opinion of him. The temper of mind, in which the Dutchess received the inquiry, naturally leads to a suspicion, that she was displeased at Mr. Henley for having betrayed her confidence, especially when we recollect that Mr. Fox has stated some ground for believing that she was satisfied in own mind of the truth of the fact she had been represented to have related.

Fox, p. 61.

We dismiss, now, the general abuse which must be expected to be cast lavishly upon every man, who distinguishes himself as Bishop

Burnet had done, by his zeal and ability in support of the political principles and measures of his party. The Bishop had his share in his day ; and it is rather hard upon his memory, that Mr. Rose, a professed Whig, should call in the aid of Jacobites, Nonjurors, and Tories, to revive the obloquy against him.\* But it is more easy to rail than to argue ; to make general charges, than to assert and prove specific facts. This the reader will find to be the case in the present instance. It is true, that the general charge made by Mr. Rose is supported by persons of great note, but whose dislike of the Bishop, his principles, and conduct deprived them of the power of forming a just judgment either of his actions, or writings. Not content, however, with their testimony, Mr. Rose has selected certain facts, which he supposes further corroborate the general opinion he had formed, and those authorities have proved. But if each specific fact selected by him, as being tainted by falsehood, turns out upon examination to be truly stated, we shall be justified in disregarding these general imputations, and trust with increased confidence in the fidelity of the Bishop upon other occasions.

In the foregoing pages the veracity or correctness of Burnet, has been attacked either directly or by insinuation not less than four times. 1. For his general character of Monk. 2. For his having charged Monk with betraying the Letters of Argyle. 3. For his having given a wrong description of the bill for the preservation of the person of James the Second. 4. For stating that that bill was opposed by Mr. Serjeant Maynard. Yet in every one of these instances the fidelity and correctness of the Bishop has been conspicuous, and each charge has upon examination proved to have had no foundation, but in the inaccuracy, indolence, or unfounded suspicions of those, who first made, or afterwards repeated it. It will be sufficient to refer the reader to the different parts of the Vindication, without entering into a second discussion of those charges here.

Rose, p. 15.  
Ib. p. 22.  
Ib. p. 156.

Ib. p. 157.

*ante*, p. 27, 56.  
225, 234.

In his Appendix Mr. Rose has added three, as he calls them, " Mis-statements in the Bishop's History contradicted by records."

\* Mr. Rose has exceeded them all in asperity in a note upon an *alteration made by himself* in an extract from the Dartmouth MS. See his Appendix, p. lvi.

Chand. Deb. ii.  
p. 174.

Ib. p. 191.

1. Bishop Burnet in 1685 says, " that the House was more forward to give than the King was to ask. To which the King thought fit to put a stop, by a message, intimating that he desired no more money that Session." To this Mr. Rose answers, " Here is a positive mis-statement of a fact, *which could by no possibility have arisen from a mistake*, as the Doctor was on the spot at the time" and then he says it is unquestionably, " certain that *his Majesty sent no message*, nor took any other measures to check or to stop the grants," and then he cites many entries from the Journals to prove that the King was urgent for supplies. Before we proceed it may be proper to notice, that Mr. Rose's reason for imputing a wilful deviation from truth, viz. because *the Bishop was upon the spot*, has been hazarded without due consideration, for I believe it will be found that he was in Holland at the time. He fled immediately after the death of Charles II. And it will be unnecessary to follow Mr. Rose through the Journals, because the single question is whether the King sent any message to put a stop to further grants of money. That there is no such message upon the Journals we readily acknowledge, but it does not follow for that reason alone that none was sent. If Mr. Rose had not been a steady believer in the infallibility of the Journals, which he has in his own custody, he might perhaps have condescended to have looked into Chandler's debates, and there he would have found that on the 10th of June, 1685, Sir John Ernley did deliver a message from the King, heartily thanking the Commons for their services, and telling them " that he desired no more this Session than what they were about, that he would make trial of the impositions on sugars and tobacco, but if he should find them injurious to his plantations, he would not make use of them, but hoped they would supply him some other way." If he had examined further he might have found, that on the 16th of the following November, Sir Hugh Cholmondley in the committee of supply said, " The House was so forward to give last time, that the King's Ministers gave their stop to it." But we have the testimony of a still higher nature to produce, which Mr. Rose had in his own hands, which he has referred to, but which it is to be hoped he never read.



For the Earl of Lonsdale in his Memoir, not only confirms Burnet, as to the profusion of the Commons, but also vouches the authenticity of the message before mentioned, by quoting the latter part of it. The words of the Memoir are, “ And therefore in the matter of the revenue, *he did not ask so much as the Parliament did give. So that they prevented not only his expectations but his wishes; insomuch that they laid so great an imposition upon tobacco and sugars, as in the apprehensions of many men would destroy the plantations, that subsist by those commodities; and notwithstanding that the marchants from Bristol and other places, were heard att the bar of the hous, and by very rational discourses made the matter but too plain yet t’was to no purpose; some men’s private interest, other mens willingnesse to endear the King as much as possible making them deaf to all arguments, and besides the King’s promise, that if it was ffound inconvenient to the trade, he would remitt the imposition, was of so much prevalence, that the matter was allowed no further debate.*” Before Mr. Rose had made so serious a charge upon the Bishop, he ought to have well examined the evidence on which it was founded. The Earl of Lonsdale’s testimony is quite decisive, he was, as Mr. Rose supposes Burnet to have been upon the spot, and was active in all the measures which were going on; he could not be mistaken, and there can be no doubt, notwithstanding the omission in the Journals, that the message was delivered. In this instance Bishop Burnet’s History, standing single and unauthenticated by any corroborating circumstance, as it did for many years, and as Mr. Rose conceived it to do when he wrote, has proved to be more to be depended upon than the records, as Mr. Rose calls them, produced to contradict it.

Lonsdale’s  
Mem. p. 4.

2. The second mis-statement is that the alarm of Monmouth’s landing was brought to London, “ where *upon the general report and belief* of the thing, an act of attainder passed both houses in one day; some small opposition being made by the Earl of Anglesey, because the evidence did not seem clear enough for so severe a sentence, which was *grounded on the notoriety of the thing.*” Mr.

Rose denies that the act passed on a general belief, and was grounded on the notoriety of the thing, because "the King on the 13th of June, communicated to the two houses a letter from Alford the Mayor of Lyme, giving a particular account of the Duke's landing there, and taking possession of the Town." Thus, according to some new system of consistent reasoning, though hearsay stories ought not to be admitted in history, a letter sent to the King, and by him laid before both Houses of Parliament, may be received as sufficient evidence of the facts mentioned in that letter, in order to criminate and even attain an individual. Bishop Burnet might be of a contrary opinion, and conceive according to the rules by which the municipal tribunals of the country regulate their proceedings, that the person who wrote the letter ought himself to have been produced, and that in his absence what he wrote ought to be treated as no evidence at all. But upon referring to the Journals, the Bishop's account of this act will be found perfectly correct. Upon Saturday the 13th of June, 1685, the King laid before both of the Houses of Parliament the letter from the Mayor of Lyme, giving an account of Monmouth's landing there, and acquainted the Commons that two messengers, who brought the letter had been examined upon oath at the Council Table. The Commons examined the messengers who testified "the truth of the matter," but the Lords did not. Both Houses agreed to address the King, and the address of the Lords thanked him for *imparting the intelligence*. The letter of the Mayor might be sufficient to authorize an address, but not a bill of attainder, a sort of prerogative trial, in which the legislature by an extraordinary interference, removes the consideration of an offence from the common tribunals, and takes it upon itself. The Commons, having voted the address, ordered a bill to be brought in for the attainder of the Duke of Monmouth, without any further examination of witnesses. On Monday the 15th the bill was read three times, and passed, and sent up to the Lords, where it was also read three times on the same day, without the production of any evidence, and passed; and on the next day, Tuesday the 16th of June, it received the royal assent. These circumstances must have been well known to Mr.

Com. Journ.  
ix. p. 735.

Lords' Journ.  
xiv. p. 39.

Com. Journ.  
ix. p. 737.

Lords' Journ.  
xiv. p. 42. 44.

## APPENDIX. No. V.

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Rose, and from his having omitted to mention the examination of the two messengers by the Commons, we presume that as their depositions are not preserved in the Journals, he thinks they do not affect the question, and chuses to rest his objection upon the production of the letter only. He conceives the same evidence, as he styles it, to have been laid before both houses, and the only difference between their proceedings to be that the Lords were occupied with the bill a few hours later than the Commons. In this view of the subject, besides the answers before alluded to, that the letter was no more than hearsay, and not admissible at all in evidence, we learn, that in fact, as a foundation for the act of attainder, that letter was never read. It was merely, to use an expression in the address of the Lords, the imparting of intelligence, and the act passed afterwards must have been founded upon general report and belief, and the notoriety of the thing, as the Bishop has described it. The Bishop does not stand single and uncorroborated in his opinion of the manner in which this business was conducted, for the Earl of Lonsdale, who was at that time an assiduous Member of the House of Commons, ends his memoir with an expression, which shews that he conceived the charge to be well founded as far as the House of Commons was concerned, "they" says he, "passed a bill of attainder against the Duke of Monmouth, *without examining witnesses* in one day," and he could not be mistaken about this fact. Burnet says that the Earl of Anglesey opposed this bill in the Lords, because he thought the evidence not sufficient to authorize so severe a sentence. This leads to a suspicion that the Bishop was perfectly aware of what Mr. Rose triumphs in producing, namely the letter of the Mayor, for a noble Lord did oppose the bill on account of a defect in the evidence, and the advocates for it probably resorted to the notoriety of the facts, as the best justification of the measure. It is evident that the Earl of Lonsdale considers the examination of the two messengers by the Commons, to have had no relation whatever to the bill, and it is also manifest that the essential requisites of justice were not attended to, no specific charge was made the foundation of the attainder, no evidence was required of the guilt of the culprit, no witnesses examined to prove it. We may therefore

Memoirs, p. 64.



Stat. Tr. v.  
p. 123.

beg of Mr. Rose to disclose any other ground, upon which the proceedings of either House can be supported or defended, but that which he objects to because suggested by Bishop Burnet, namely, the *general report and belief*, the *notoriety of the thing*. It may be readily conceived that the mode, in which this act was passed, occasioned much conversation at the time, more especially if what Sir Edward Seymour said in a debate on Sir John Fenwick's bill is true, that this bill against the Duke of Monmouth was the first bill of attainder, which had ever originated in the House of Commons, where witnesses could not be examined upon oath.

Lords' Journ.  
xiv. p. 115.  
Ibid. p. 116.

3. The last supposed instance of a mis-statement by Bishop Burnet is taken from his account of what passed in the House of Lords in convention after the abdication of James the Second, respecting the vacancy of the throne, and its being filled by the Prince and Princess of Orange. The objections are three in number, and none of them very important. 1. Burnet says many protestations passed in the House, in the progress of the debate; 2. the House was very full, about 120 were present; and 3. against the final vote by which the Prince and Princess were declared King and Queen, a great protestation was made. To the first, Mr. Rose answers that there were only three protests, but to this we shall observe that 'many' is a word of loose and indefinite signification, and three protests, if not four, arising out of one subject might appear to the Bishop to authorize the expression, though Mr. Rose may be of a different opinion. To the second, Mr. Rose truly says the most important discussions took place, on the 31st of January, the 4th and 6th February, and states the numbers present to have been 100, 111, and 112. In one of these numbers is a mistake of importance only as shewing, that the propensity to blunder so often complained of, extends even to figures and calculations, for on the 4th of February there were present only 109 Lords, not 111. A similar mistake occurs in his alledging that "the greatest number of Whigs who protested were 36;" for on the same 4th of February 39 signed a protest. The Bishop has not been dealt quite fairly with in the citation made from his work, for this sentence which introduces it in the original is

## APPENDIX. No. V.

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omitted in the quotation. "I have not pursued the relation of the "debates according to the order in which they passed, which will be "found in the Journal of both houses during the convention." This is a material passage for the vindication of the Bishop, his object is to give an account not of the debates and transactions of each day, but a general view of the whole, and when he says "about 120 were present," he does not mean that so many attended upon any one day, but on one or other of the several days during which the debates alluded to were going on. Mr. Rose's enumeration, therefore, of those who were present upon each of the days of the three most important debates, will not shew the Bishop to be wrong, indeed it can have no bearing upon the question. Upon a cursory examination of the Journal, there appear to have been present on some one or other of the following days, January the 29th, 30th, 31st, February the 1st, 4th, 5th, and 6th, 117 different Lords; so that, Bishop Burnet's assertion being understood to mean, that about 120 were present at some one or other of the debates is probably correct. 3. Mr. Rose asserts that there certainly was no protest against the final vote, that the Prince and Princess of Orange should be declared King and Queen. On the 6th of February, the Lords resolved to agree with the Commons that James had abdicated, and the throne thereby was vacant. Immediately after that vote, the question that the Prince and Princess of Orange should be declared King and Queen passed also in the affirmative. In the Journal, leave is entered for Lords to protest after each of these votes; and it appears that 38 Lords did enter their names as protesting against the first of them. Immediately after the second, which is the *final vote* alluded to, is this entry, "Leave given to any "Lords to enter their dissents; and, accordingly, these Lords follow-  
"ing do enter their dissents by subscribing their names;" but no names are subscribed. If we had here only the authority of Bishop Burnet opposed to that of the Journals, recollecting that in a similar instance recently under consideration, he turned out to be right, it would be too much to conclude that he must be wrong. He tells us that he had a great share in the management of these debates, of course we must presume him to be well acquainted with the fact he narrates; and that if he is not correct he is guilty of a gross mistake,

Burnet, i. p.  
821.

Lords' Journ.  
xiv. p. 119.

or of a wilful deviation from truth ; but a man does not usually prefer falshood to truth without a motive, and here none can be assigned. Besides, the probability is on the side of the Bishop, for the same peers who had signed the protest against voting the vacancy of the throne, might be expected to have signed the protest against the final vote.

Lords' Journ.  
xiv. p. 122.

But the words of the Journal may be worthy of attention ; for the usual entry when no names are subscribed, is only " that leave was " given to any Lords to enter their dissents ;" an instance occurred on the 9th of February, when the declaration was settled with respect to the paragraph, declaring the Prince and Princess to be King and Queen, and no names were subscribed. The addition of these words, " that the Lords following have entered their dissents, by subscribing " their names," or " giving their reasons," might not usually be made, until some Lord intending to protest required it. A suspicion therefore arises, that the names of the same peers who made the first protest of that day, were subscribed also to the second, though they are not found in the printed Journal. But after all, we may grant that the Bishop has been mistaken in this solitary immaterial fact, which can by no possibility affect his narrative in other respects. And it is curious to observe, that Mr. Rose himself has made more mistakes in pointing out this trifling error, if it is one, than he, after calling in the assistance of Bevill Higgons, Dr. Campbell, and Mr. Ralph, has been able to select from the Bishop's whole work.

Bishop Burnet's History of his Own Times is contained in two folio volumes, and not only all the abuse which the utmost virulence of party had cast upon the author has been revived, but no less than seven or eight different specific charges have been made against him. If there had been more errors discovered in his history, it cannot be supposed that they would have been omitted to have been mentioned, when defects so extremely trifling and insignificant as those, with which Mr. Rose's Appendix is concluded, are brought into notice. But the character of the Bishop for veracity has risen triumphantly over these puny efforts to destroy his fair fame, in every instance (except, perhaps, the last of all) he appears to have been perfectly correct in his statements. And what ought to give con-



fidence in those facts which now stand upon his sole authority, many of those, which have been disputed, have been authenticated by documents, published subsequently to the objections being made. No man was possessed of higher and more authentic sources of information, and he made use of them. His character of James the Second has been supported, almost in his expressions, by the secret dispatches of Barillon; his character of Monk by the publications of Baillie, Cunningham, and Mrs. Hutchinson; and Mr. Rose, with the memoir of the Earl of Lonsdale in his hand, has attacked his veracity in the relation of two circumstances, both of which that memoir has proved to be true. Having undergone such an ordeal, let us hope that the Bishop's history may not only be allowed to retain a high reputation for authenticity among the Whigs, but that, even among the Tories its general character may no longer be the subject of obloquy and controversy. Looking back to the result of those discussions which have been provoked by Mr. Rose, it may reasonably be expected, that what has happened in so many instances will happen again; that the more numerous the family papers which shall be hereafter laid open to public inspection, the more numerous will be the future confirmations of his statements. I cannot conclude without adding, as an act of justice to the character of Bishop Burnet, that having had occasion frequently to examine into the correctness of facts related by him, I have always found them to be accurately stated in substance. But his affected disregard to dates, and throwing together matters which happened at different times, in order to form one general view of each particular subject, give his work the appearance of incorrectness, and make it troublesome for reference. The numerous mistakes committed by Mr. Rose, though habituated to official accuracy, in a not very thick quarto volume, while it evinces how difficult it is to guard against them, may raise a feeling of respect for Bishop Burnet who without the advantage alluded to, has written two folio volumes, in which there is so little to object to, so little to be wished, altered or obliterated.

THE END.

## ERRATA.

In the Preface.		Page.	line.
Page 1,	last line, for <i>On the contrary</i> read <i>Indeed</i> .	136,	26, dele <i>to him</i> .
Page.	line.	141,	6, for <i>comprizing</i> read <i>comprized in</i> .
39,	3, for <i>May</i> , read <i>March</i> .	146,	16, after <i>March</i> , insert 1685.
41,	6, for <i>Mr.</i> read <i>Sir</i> .	154,	19, after translated, insert <i>it</i> .
53,	23, for <i>Office</i> read <i>Officer</i> .	164,	5, from <i>It is</i> , read <i>For he argues</i> .
68,	14, after 27th, insert <i>September</i> .	172,	13, for <i>is</i> , read <i>so</i> .
85,	20, for 1569, read 1559.	224,	22, for <i>work</i> , read <i>works</i> .
100,	15, for <i>Rebels</i> read <i>Rebel</i> .	247,	20, for <i>rights</i> read <i>right</i> .
102,	23, for <i>inattention</i> read <i>attention</i> .	309,	7, after <i>religion</i> insert <i>and at last</i> .
105,	8, dele <i>then</i> .	318,	2, for 5,000,000, read 500,000.
111,	22, for <i>truism</i> read <i>truth</i> .	334,	12, after <i>have</i> , dele <i>not</i> .
		417,	18, for 1674/5 read 1684/5.



















